MONTANA LEGISLATIVE HISTORY

Chapter 382 19 95

Bill H _____ S 80 Original bill & history X C

H. Committee on BUSINESS & LABOR			S. Committee on LABOR & EMPLOYMENT		
Hearing Date(s) & EXEC ACTION	3/7	X C	Hearing Date(s)	1/17	X C
		C	EXEC ACTION	1/19	X C
		C	EXEC ACTION ON RE-REFERRAL	1/31	X C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

SB 78 INTRODUCED BY GROSFIELD, ET AL.

MODIFY CERTAIN REQUIREMENTS FOR WATER POLLUTION CONTROL ADVISORY COUNCIL

BY REQUEST OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

1/09	INTRODUCED		
1/09	FIRST READING		
1/09	REFERRED TO NATURAL RESOURCES		
1/10	FISCAL NOTE REQUESTED		
1/16	HEARING		
1/16	FISCAL NOTE RECEIVED		
1/16	FISCAL NOTE PRINTED		
2/02	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/03	2ND READING PASSED	48	1
2/04	3RD READING PASSED	43	2
	TRANSMITTED TO HOUSE		
2/06	FIRST READING		
2/06	REFERRED TO NATURAL RESOURCES		
3/03	HEARING		
3/07	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/11	2ND READING CONCURRED	95	2
3/14	3RD READING CONCURRED	96	3
	RETURNED TO SENATE WITH AMENDMENTS		
3/18	2ND READING AMENDMENTS CONCURRED	46	0
3/20	3RD READING AMENDMENTS CONCURRED	49	1
3/25	SIGNED BY PRESIDENT		
3/25	SIGNED BY SPEAKER		
3/27	TRANSMITTED TO GOVERNOR		
3/30	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 297		
	EFFECTIVE DATE: 07/01/95		

SB 79 INTRODUCED BY BROWN

REQUIRE ELECTORS OF EACH ELEMENTARY SCHOOL DISTRICT WITHIN BOUNDARIES OF A HIGH SCHOOL DISTRICT TO VOTE IN 1997 TRUSTEE ELECTIONS AND AT 7-YEAR INTERVALS THEREAFTER ON WHETHER TO ANNEX ELEMENTARY DISTRICT TO ELEMENTARY DISTRICT WHERE THE HIGH SCHOOL BUILDING IS LOCATED

1/09	INTRODUCED
1/09	FIRST READING
1/09	REFERRED TO EDUCATION & CULTURAL RESOURCES
1/13	HEARING
1/24	TABLED IN COMMITTEE
2/23	MISSED TRANSMITTAL DEADLINE FOR 45TH DAY
	DIED IN COMMITTEE

SB 80 INTRODUCED BY KEATING, ET AL.

EXEMPT FROM OVERTIME REQUIREMENTS AN EMPLOYEE EMPLOYED AS A RADIO ANNOUNCER, NEWS EDITOR, OR CHIEF ENGINEER IN A SECOND- OR THIRD-CLASS CITY OR A TOWN

1/10	INTRODUCED
1/10	FIRST READING
1/10	REFERRED TO LABOR & EMPLOYMENT RELATIONS
1/11	FISCAL NOTE REQUESTED
1/16	FISCAL NOTE RECEIVED
1/17	FISCAL NOTE PRINTED
1/17	HEARING
1/20	COMMITTEE REPORT—BILL PASSED

1/21	2ND READING DO PASS MOTION FAILED	20	26
1/21	2ND READING INDEFINITELY POSTPONED	28	18
1/23	RECONSIDERED PREVIOUS ACTION	32	17
1/23	REREFERRED TO LABOR & EMPLOYMENT RELATIONS		
2/01	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/02	2ND READING PASSED	25	23
2/03	3RD READING PASSED	28	22
	TRANSMITTED TO HOUSE		
2/06	FIRST READING		
2/06	REFERRED TO BUSINESS & LABOR		
3/07	HEARING		
3/07	COMMITTEE REPORT—BILL CONCURRED		
3/25	2ND READING CONCURRED	74	23
3/27	3RD READING CONCURRED	72	26
	RETURNED TO SENATE		
4/06	SIGNED BY PRESIDENT		
4/06	SIGNED BY SPEAKER		
4/07	TRANSMITTED TO GOVERNOR		
4/12	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 382		
	EFFECTIVE DATE: 04/12/95		

SB 81 INTRODUCED BY HERTEL

DELETE SUBSTANTIAL HARDSHIP IN PROVIDING FOR PERSONAL OR FAMILY NECESSITIES AS DEMONSTRATING FINANCIAL INABILITY TO OBTAIN LEGAL REPRESENTATION ENTITLING A DEFENDANT TO COURT-APPOINTED COUNSEL

1/10	INTRODUCED
1/10	FIRST READING
1/10	REFERRED TO JUDICIARY
1/11	FISCAL NOTE REQUESTED
1/16	HEARING
1/16	FISCAL NOTE RECEIVED
1/16	FISCAL NOTE PRINTED
1/18	TABLED IN COMMITTEE
2/23	MISSED TRANSMITTAL DEADLINE FOR 45TH DAY
	DIED IN COMMITTEE

SB 82 INTRODUCED BY HERTEL

CHANGE DATE FOR SETTING SALARIES OF COUNTY OFFICERS

1/10	INTRODUCED		
1/10	FIRST READING		
1/10	REFERRED TO LOCAL GOVERNMENT		
1/19	HEARING		
1/23	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/24	2ND READING PASSED	47	2
1/25	3RD READING PASSED	47	3
	TRANSMITTED TO HOUSE		
1/26	FIRST READING		
1/26	REFERRED TO LOCAL GOVERNMENT		
3/07	HEARING		
3/08	COMMITTEE REPORT—BILL CONCURRED		
3/11	2ND READING CONCURRED	96	1
3/14	3RD READING CONCURRED	97	2
	RETURNED TO SENATE		
3/16	SIGNED BY PRESIDENT		
3/18	SIGNED BY SPEAKER		
3/20	TRANSMITTED TO GOVERNOR		

SENATE BILL NO. 80

INTRODUCED BY Keating Smith Benedict [redacted] HAFF
Fuller Grimes Stovall

A BILL FOR AN ACT ENTITLED: "AN ACT INCORPORATING INTO STATE LAW THE FEDERAL EXEMPTION FROM OVERTIME REQUIREMENTS FOR AN EMPLOYEE EMPLOYED AS AN ANNOUNCER, NEWS EDITOR, OR CHIEF ENGINEER; AMENDING SECTION 39-3-406, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-3-406, MCA, is amended to read:

"**39-3-406. Exclusions.** (1) The provisions of 39-3-404 and 39-3-405 do not apply with respect to:

(a) students participating in a distributive education program established under the auspices of an accredited educational agency;

(b) persons employed in private homes whose duties consist of menial chores, such as babysitting, mowing lawns, and cleaning sidewalks;

(c) persons employed directly by the head of a household to care for children dependent upon the head of the household;

(d) immediate members of the family of an employer or persons dependent upon an employer for half or more of their support in the customary sense of being a dependent;

(e) any persons not regular employees of a nonprofit organization who voluntarily offer their services to a nonprofit organization on a fully or partially reimbursed basis;

(f) handicapped workers engaged in work that is incidental to training or evaluation programs or whose earning capacity is so severely impaired that they are unable to engage in competitive employment;

(g) apprentices or learners, who may be exempted by the commissioner for a period not to exceed 30 days of their employment;

(h) learners under the age of 18 who are employed as farm workers, provided that the exclusion may not exceed 180 days from their initial date of employment and further provided that during this exclusion period, wages paid the learners may not be less than 50% of the minimum wage rate established

SB 80
INTRODUCED BILL

in this part;

(i) retired or semiretired persons performing part-time incidental work as a condition of their residence on a farm or ranch;

(j) any individual employed in a bona fide executive, administrative, or professional capacity as these terms are defined by regulations of the commissioner;

(k) any individual employed by the United States of America;

(l) resident managers employed in lodging establishments or personal care facilities who, under the terms of their employment, live in the establishment or facility;

(m) an outside salesperson or marketing representative paid on a commission, contract, or salary basis who is primarily employed in selling or marketing products or services in the food distribution industry for a food broker, wholesaler, or association.

(2) The provisions of 39-3-405 do not apply to:

(a) an employee with respect to whom the United States ~~Secretary~~ secretary of ~~Transportation~~ transportation has power to establish qualifications and maximum hours of service pursuant to the provisions of 49 U.S.C. 304;

(b) an employee of an employer subject to the provisions of part I of the Interstate Commerce Act;

(c) an individual employed as an outside buyer of poultry, eggs, cream, or milk, in their raw or natural state;

(d) an outside salesperson paid on a commission or contract basis who is primarily employed in selling advertising for a newspaper;

(e) a salesperson, parts person, or mechanic paid on a commission or contract basis and primarily engaged in selling or servicing automobiles, trucks, mobile homes, recreational vehicles, or farm implements if the salesperson, parts person, or mechanic is employed by a nonmanufacturing establishment primarily engaged in the business of selling the vehicles or implements to ultimate purchasers;

(f) a salesperson primarily engaged in selling trailers, boats, or aircraft if the salesperson is employed by a nonmanufacturing establishment primarily engaged in the business of selling trailers, boats, or aircraft to ultimate purchasers;

(g) an outside salesperson paid on a commission or contract basis who is primarily employed in selling office supplies, computers, or other office equipment for an office equipment dealer;

(h) a salesperson paid on a commission or contract basis who is primarily engaged in selling

advertising for a radio or television station employer;

(i) an employee employed as a driver or driver's helper making local deliveries who is compensated for the employment on the basis of trip rates or other delivery payment plan if the commissioner finds that the plan has the general purpose and effect of reducing hours worked by the employees to or below the maximum workweek applicable to them under 39-3-405;

(j) an employee employed in agriculture or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways not owned or operated for profit and not operated on a sharecrop basis and that are used exclusively for supply and storing of water for agricultural purposes;

(k) an employee employed in agriculture by a farmer, notwithstanding other employment of the employee in connection with livestock auction operations in which the farmer is engaged as an adjunct to the raising of livestock, either alone or in conjunction with other farmers, if the employee is:

(i) primarily employed during a workweek in agriculture by a farmer; and

(ii) paid for employment in connection with the livestock auction operations at a wage rate not less than that prescribed by 39-3-404;

(l) an employee of an establishment commonly recognized as a country elevator, including an establishment that sells products and services used in the operation of a farm, if no more than five employees are employed by the establishment;

(m) a driver employed by an employer engaged in the business of operating taxicabs;

(n) an employee who is employed with the employee's spouse by a nonprofit educational institution to serve as the parents of children who are orphans or one of whose natural parents is deceased or who are enrolled in the institution and reside in residential facilities of the institution so long as the children are in residence at the institution and so long as the employee and the employee's spouse reside in the facilities and receive, without cost, board and lodging from the institution and are together compensated, on a cash basis, at an annual rate of not less than $10,000;

(o) an employee employed in planting or tending trees; cruising, surveying, or felling timber; or transporting logs or other forestry products to a mill, processing plant, railroad, or other transportation terminal if the number of employees employed by the employer in the forestry or lumbering operations does not exceed eight;

(p) an employee of a sheriff's department who is working under an established work period in lieu of a workweek pursuant to 7-4-2509(1);

(q) an employee of a municipal or county government who is working under a work period not exceeding 40 hours in a 7-day period established through a collective bargaining agreement when a collective bargaining unit represents the employee or by mutual agreement of the employer and employee when a bargaining unit is not recognized. Employment in excess of 40 hours in a 7-day, 40-hour work period must be compensated at a rate of not less than 1½ times the hourly wage rate for the employee.

(r) an employee of a hospital or other establishment primarily engaged in the care of the sick, disabled, aged, or mentally ill or defective who is working under a work period not exceeding 80 hours in a 14-day period established through either a collective bargaining agreement when a collective bargaining unit represents the employee or by mutual agreement of the employer and employee when a bargaining unit is not recognized. Employment in excess of 8 hours ~~per~~ a day or 80 hours in a 14-day period must be compensated for at a rate of not less than 1½ times the hourly wage rate for the employee.

(s) a firefighter who is working under a work period established in a collective bargaining agreement entered into between a public employer and a firefighters' organization or its exclusive representative;

(t) an officer or other employee of a police department in a city of the first or second class who is working under a work period established by the chief of police under 7-32-4118;

(u) an employee of a department of public safety working under a work period established pursuant to 7-32-115;

(v) an employee of a retail establishment if the employee's regular rate of pay exceeds 1½ times the minimum hourly rate applicable under section 206 of the Fair Labor Standards Act of 1938 and if more than half of the employee's compensation for a period of not less than 1 month is derived from commissions on goods and services;

(w) an employee employed as an announcer, news editor, or chief engineer by an employer subject to the provisions of section 213(b)(9) of the Fair Labor Standards Act of 1938."

NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0080, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:
An act incorporating into state law the federal exemption from overtime requirements for an employee employed as an announcer, news editor, or chief engineer.

ASSUMPTIONS:
1. The Department of Labor and Industry is not aware of any impact on the department or other state agencies.

FISCAL IMPACT:
None

David Lewis - 1-16-95
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Keating 1-17-95
TOM KEATING, PRIMARY SPONSOR DATE

Fiscal Note ~~for~~ SB0080, as introduced

SB 80

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON LABOR & EMPLOYMENT RELATIONS

Call to Order: By **CHAIRMAN TOM KEATING**, on January 17, 1995, at 1:00 P.M.

ROLL CALL

Members Present:
Sen. Thomas F. Keating, Chairman (R)
Sen. Gary C. Aklestad, Vice Chairman (R)
Sen. Steve Benedict (R)
Sen. Larry L. Baer (R)
Sen. James H. "Jim" Burnett (R)
Sen. C.A. Casey Emerson (R)
Sen. Sue Bartlett (D)
Sen. Fred R. Van Valkenburg (D)
Sen. Bill Wilson (D)

Members Excused: None.

Members Absent: None.

Staff Present: Eddye McClure, Legislative Council
Mary Florence Erving, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing: HB 47
HB 31
SB 80
Executive Action: None.

HEARING ON HB 47

Opening Statement by Sponsor:

REPRESENTATIVE DON LARSON, HD 58, Seeley Lake, stated HB 47 was introduced at the request of the Department of Labor. **REP. LARSON** stated the bill clarifies statute concerning alternative membership on the five member board of personnel appeals; grants the board the ability to testify in hearings by telephone teleconference mechanisms; clarifies the ability of district courts to enter judgements; and enables the department to allocate the cost of fact finding to a professional fact finder. The bill also appeals the little used and discriminatory Bar and Restaurant Protection Act. The bill has no fiscal impact, unless killed, then a negative amount affects the General Fund. The

REP. EWER concurred with **SENATOR VAN VALKENBURG'S** concerns. Current statute effect minors eighteen years old or younger. **SENATOR VAN VALKENBURG** voiced concern about the summer job market for minors, those young people who are eighteen years old and younger.

SENATOR BARTLETT stated the problem with kids occurs because the child labor law prohibits employment of anyone under fourteen years of age. The child labor law is a three tier system. Under fourteen, employment is prohibited, aside from the exceptions; fourteen and fifteen year olds have certain sets of prohibited occupations. Sixteen and seventeen year olds are governed by another set. There is no current statute that prohibits fourteen through eighteen year olds from being employed in certain occupations. Officiating at adult sport events are not prohibited. **SENATOR BARTLETT** expressed concern that the new House amendment language makes the statutes "over broad". **SENATOR BARTLETT** stated the purpose of the amendment is to address specifically those children under age fourteen. **REP. EWER** stated the intent of his bill is to allow children to officiate at adult games. **REP. EWER** is agreeable to clarify the proposed language.

SENATOR BAER asked for clarification of line 21, sub section 5., concerning "as an actor, model, or performer." **CHAIRMAN KEATING** explained line 21, sub section 5. The language is already statutory law. The amendment is on line 26, and only concerns exemption 9.

CHAIRMAN KEATING stated the committee understands the intent of the bill and will address **SENATOR VAN VALKENBURG's** concern.

Closing by Sponsor:

REPRESENTATIVE EWER closed by urging support of HB 31.

At this point in the hearing **CHAIRMAN KEATING** turned the chair over to **VICE CHAIRMAN GARY AKLESTAD** in order to present SB 80.

HEARING ON SB 80

Opening Statement by Sponsor:

SENATOR TOM KEATING, SD 5, Billings, Montana, stated SB 80 deals with small market broadcasters. In 1961, Congress provided an exemption from the Federal Labor Standard Act for overtime requirements for certain broadcaster employees who are located in less populated area. The exemption recognized that some small market broadcasters employ only a few people, who may out of necessity hold several positions and work in excess of 40 hours per week. Broadcasters who fall within the exemption are still obligated to pay all effective employees the minimum wage and maintain appropriate records. The statutory exemption is applicable to announcers, news editors and chief engineers who

devote at least 50% of their work to the duties defined in statute and are employed in small markets, as defined by the FLSA.

Proponents' Testimony:

Riley Johnson, Representing Montana Broadcasting Association, presented written testimony in support of SB 80 **(EXHIBIT 2).**

Jane English, Executive Vice President, Eagle Communications, Missoula, Montana, presented written testimony in support of SB 80 **(EXHIBIT 3).**

Ron Davis, President of Montana Broadcasters Association and Owner and General Manager of KBOW/KOPR, Butte, MT stated his operation is one of the few operations that has a full time engineer and news directors on staff. Because of budget problems the stations has curtailed open news coverage. Additional expenses will cause the downgrading of news event coverage, causing the station to triage what event will be covered. Staffing is important to the industry. **Mr. Davis** urged a DO PASS on SB 80 to allow stations to provide news coverage to the public.

David Owen, Montana Chamber of Commerce, Helena, MT, stated the Chamber has routinely supported state industries through the Fair Labor Standards Act. Last year, indoor sales people were targeted and taken off the list. **Mr. Owen** recounted positive experiences with small market broadcasters throughout the state. He stated employee flexibility goals equates to fine lined, micro-management. **Mr. Owen** encouraged the committee to apply federal standards to Montana law.

Opponents' Testimony:

Matt Raymond, State Capitol Bureau Chief, Montana Television Network, servicing stations in Billings, Great Falls, Missoula, Butte, Bozeman, Kalispell and Glendive, vocalized strong opposition from written testimony. **(EXHIBIT 4)**

Daniel J. Rapkoch, Billings, MT, stated SB 80 rewards incompetence and morally reprehensible behavior. Senate Bill 80 is a disgusting attempt by Montana owners and managers of radio and television stations to seek another government subsidy. The Federal Communication Commission allows a finite number of radio and television stations to be built in a given community. Thus, broadcasters are shielded from true competition. The broadcasters want the Legislature to reinstate the Fair Labor Standards Act to exclude announcers, radio news people, news people, in general, and engineers from getting paid for doing their jobs. The broadcasters want the Legislators to give a 7 to 0 decision from the Montana Supreme Court granting overtime to reinstate the thirty year old legislation. **Mr. Rapkoch** asked if the broadcasters have no shame. **Mr. Rapkoch** stated the average, but

lucky newscaster, makes approximately $13,000 per year in salary. **Mr. Rapkoch** stated the newscasters must be college educated and available whenever news dictates. The newscasters are fresh out of college, looking for opportunity. **Mr. Rapkoch** stated if SB 80 becomes law, the employees, who are barely making a living, must now subsidize the broadcast owners and make the newscasters "indentured servants". **Mr. Rapkoch** noted KCVQ was sold by SJL Limited Partnership of Montana to *Evening Post Communication*, Charleston, South Carolina, for $8.5M cash. *Evening Post* also purchased KCTZ, Bozeman and KXLF, Butte, KPVX, Missoula, and KRTV, Great Falls for $24.1M in 1984. As a seventeen year members of the broadcast community, **Mr. Rapkoch** stated he has seen Montana radio stations sell for record prices. Now, the owners want to penalize the workers who are helping to pay off the debts.

Mr. Rapkoch stated if the companies regret the price that was paid for the properties, they should sell the properties for what they can get, and allow someone who can effectively operate the stations to work for them. **Mr. Rapkoch** stated when his father invested in a radio station in Dillon, MT, he did not come to state government to be bailed out. The station lost money, and the father and partner were forced to sell at a loss. **Mr. Rapkoch** stated he never heard his father, a 40 year newscaster veteran, say he would come to state government for redress. The broadcaster's association does not represent the "mom and pop" stations. Radio stations are valuable commodities. People want to own news stations, and yet Montana Broadcasters ask the legislature for relief from paying employees overtime. The employees are lucky to make $13,000 a year. **Mr. Rapkoch** urged the committee to fail SB 80 **(EXHIBIT 5)**.

Meegan McCorkle, Weekend Anchor and weekday Reporter, KRTV Great Falls, verbalized written testimony **(EXHIBIT 6)**. **Ms. McCorkle** attested to how vital overtime pay is, and she stated her company has paid overtime from the beginning. **Ms. McCorkle** reported newscasters do not ask the respective companies for money that is not earned. **Ms. McCorkle** reported she does not ask her respective company for money that is not earned, and stated payment should be made for time worked, not with compensation time. She expressed concern that SB 80 opens the door for irresponsible management. **Ms. McCorkle** testified about a manager who was denied an employee raise because the raise would put the employee into a different financial category. The employee would no longer be eligible for food stamps. **Ms. McCorkle** stated she did not become an anchor/reporter for the money, but because the job is personally rewarding. The demanding job is well worth sacrifices. **Ms. McCorkle** expressed concern that lawmakers will decide against employees and cause young employees to seek employment out of state.

Claudia Sears, Weekend Anchor and Weekday Reporter, KTVQ television, Billings, MT, verbalized written testimony.

(EXHIBIT 7). **Ms Sears** reported that she is exempt from SB 80, since she lives in Billings. Nonetheless, she urged the committee to reject SB 80 and the hardships placed on those employees who work the hardest, capture the viewing public's attention, and are not compensated fairly.

R. A. "Gus" Koernig, Managing Editor and Anchor, KTCQ, Billings, MT, stated the industry's pay scale has not gained tremendous momentum since he started in broadcasting ten years ago. KTCQ has the largest news payroll of any broadcasting facility in Montana. KTCQ pays the most overtime and may be the most profitable facility in the state. In 1994, KTCQ experienced its most profitable year in history. **Mr. Koernig** confirmed that Billings is a competitive news market. The issue of fairness must be addressed by the committee. **Mr. Koernig** asked if a broadcaster shouldn't be entitled to overtime, just like the print reporters, who are doing the same job. **Mr. Koernig** pointed out that photographers, according to the proposed statutes, will continue to be paid overtime. Montana radio and television personalities need overtime pay to meet living expenses. KTCQ management is fortunate, the company allows news coverage personnel overtime. **Mr. Koernig** stated that SB 80 "tells" young, hard working, low-paid newscasters, who are doing important work, that they don't deserve to make enough money to live on. It is not a matter of people who are currently leaving the state, but word will get out and out-of-state applicants will become scarce. **Mr. Koernig** urged the committee to reject SB 80, as the bill serves no individual regardless of background.

Theresa Reardon, Montana KFBB's Capitol correspondent, Helena, MT, stated she is representing herself. **Ms. Reardon** stated strong opposition to SB 80.

Don Judge, Montana State AFL-CIO, Helena, voiced strong opposition to SB 80. **Mr. Judge** pointed out that the proponents to SB 80 suggested Montanans live under federal mandates. Yet, the legislators were elected under the premise that federal mandates and federal government should be kept off the backs of Montanans. Current legislation, as interpreted by the Montana Supreme Court, is a Montana Law. The intent is to protect Montanans. Montana attempts to treat the Montana work force better than in other parts of the country. The legislation works for the good of the newscast industry. Only the owners testified in favor of SB 80. Low industry's wages are appalling in a state where the cost of living is "going through the ceiling." Montana will not be served if both sides of the story was not heard. **Mr. Judge** strongly encouraged the committee to defeat the proposed legislation **(EXHIBIT 8)**.

Brian King, Newscast Director, KTVQ, Billings, MT, submitted written testimony **(EXHIBIT 9)**.

Shannon Everts, Anchor and Producer, KRTV-3, Great Falls, MT, submitted written testimony **(EXHIBIT 10)**.

Kay Erickson, Billings, MT, submitted written testimony **(EXHIBIT 11)**.

Melody Sand, News Reporter, KRTV, submitted written testimony **(EXHIBIT 12)**.

Frank Field, KTVQ-2 TV, Billings, MT, submitted written testimony **(EXHIBIT 13)**.

Joel Lundstad, News Director, KRTV, Great Falls, MT, submitted written testimony **(EXHIBIT 14)**.

Questions From Committee Members and Responses:

SENATOR WILSON questioned **Riley Johnson** about the population thresholds, that determine population categories. **Mr. Johnson** stated that the U.S. Census Bureau uses the term "metropolitan". Consequently, any population, according to federal law, over 100,000 fits into the large market classification. The immediate market area is determined to be "metropolitan, stations located forty miles away from large areas would be considered in the small market classification. (Market classification explanations are included **(EXHIBIT 2)**. **SENATOR WILSON** asked what is the industry's financial health in Montana and asked if the industry's operations are marginal in terms of profit.

Mr. Johnson stated he was not in a position to give information about the financial health of the Montana Broadcasting Industry, but would let **Mr. Davis** answer the question. **Ronald J. Davis, KBOW/KOPR Radio Station owner**, stated he and his wife purchased the Butte station in 1994. **Mr. Davis** reported he started as a high school announcer; worked his way through the system; went out of state for more experience; and came back to continue his career. Immediately after taking ownership, all employees were given a wage increase. Hopefully, a good return on the money will be realized. The first year's net profit was $8,800. The station is a "Mom and Pop" operation, but **Mr. Davis** stated he expects a better future.

SENATOR BARTLETT asked **Mr. Johnson,** even if SB 80 passed, would all Montana markets, except Billings be effected by the legislation. Would the people working in Billings still be paid overtime, rather than be provided comp time. Mr. Johnson stated people in Billings are not subjected to the proposed legislation. they are, by federal law, limited to a forty hour work week. The point is: Any broadcasting company can opt to pay overtime or comp time. Great Falls has always opted to pay overtime.

SENATOR BARTLETT asked Jane English how many Eagle Broadcasting people are affected. **Ms English** stated approximately 20. **SEN.BARTLETT** asked if these people are in announcing or news editor category. **Ms. English** replied approximately 20 people could be considered new editors or announcers. **SENATOR BARTLETT** asked if most of the employees are announcers or new editors.

Ms. English stated most of the employees do it all, such as taking pictures, edit, etc.

Closing by Sponsor:

SENATOR KEATING, closed the hearing by stating it is difficult to be part of a wage dispute discussion and to hear from people who testify that they are underpaid. **SENATOR KEATING** stated he doesn't blame the people for testifying during the hearing. However, the federal government established the law. The Fair Labor Standards Act governs paying of overtime. The law requires a forty hour week, and either comp time or overtime must be paid for time over the forty-hours. The same government that established the forty hour work week and the time-and-a-half for overtime law also exempted certain areas in Montana from that law. The purposed legislation takes advantage of an exemption, which is written in the law. Senate Bill 80 does not take something away from Montanans, nor does the legislation require that someone be underpaid or someone not to be paid. The legislation does not require that someone will work or not work. Senate Bill 80 requires that the employer and the employee work out their differences concerning pay scales, time schedules, overtime/comp time/vacation time, and sick leave. Senate Bill 80 does not dictate that the employer or employee must accept or reject anything the other side offers. The people who choose to work for a small broadcast station subject themselves to the comp time or overtime decisions of management. The station's revenue may not allow or commit to paying overtime. Senate Bill 80 affirms that in lieu of overtime, the owners must pay comp time. If the business cannot generate enough revenue to stay in business, the employee will simply not have a job. The decision is for the life and vitality of the station; therefore, the decision must be a business decision.

SENATOR KEATING concluded by stating that talent attracts viewers and the advertising dollar. Station people have to market their programs to realize monetary compensations. The employee and the advertising dollar are very important to the entire business. If the employer is too greedy, he/she will lose the valued employees, as well as the business. If the employer is generous, everyone will benefit. Arrangements have to be worked out. Senate Bill 80 gives an exemption to the Fair Labor Standards Act, under which all people concerned can function. **SENATOR KEATING** stated talent attracts viewers and attracts the income for the station through advertising. Many of the people at the station have to go out and sell advertising in order to get programs on the station and receive compensation. The whole thing is a business program, and the employees are extremely important to the employer. If the employer is too greedy, he

will lose the employees and business. If he is generous, he will keep the employees, and everyone will benefit. This has to be worked out between the employer and employee. SB 80 gives an exemption to the Fair Labor Standards Act under which all can function.

SENATOR BENEDICT stated he will not cast a vote on SB 80, since he is a broadcaster.

MONTANA SENATE
1995 LEGISLATURE
LABOR AND EMPLOYMENT RELATIONS COMMITTEE

ROLL CALL DATE January 17, 1995

NAME	PRESENT	ABSENT	EXCUSED
LARRY BAER	☆		
SUE BARTLETT	☆		
STEVE BENEDICT	☆		
JIM BURNETT	☆		
CASEY EMERSON	☆		
FRED VAN VALKENBURG	☆		
BILL WILSON	☆		
GARY AKLESTAD, VICE CHAIRMAN	☆		
TOM KEATING, CHAIRMAN	☆		

SEN:1995
wp.rollcall.man
CS-09

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 2
DATE 01-17-95
BILL NO. SB 80

P.O. Box 503
406-442-3961
Helena, MT 59624

TESTIMONY OF
J. RILEY JOHNSON
for
MONTANA BROADCASTERS ASSOCIATION
before
THE LABOR & EMPLOYMENT RELATIONS COMMITTEE
MONTANA SENATE
January 17, 1995

The Montana Broadcasters Association (MBA) comes before you this afternoon to rectify a situation that threatens radio and television broadcasting in Montana as we all know it today. The issue is the federal "Fair Labor Standards Act" verses recent Montana Supreme Court decisions on paying overtime for chief engineers, announcers and news editors in the broadcast industry.

For over 30 years, Montana broadcasters have assumed they were governed on overtime requirements by federal wage and hour law, which specifically exempts news editors, announcers and chief engineers for certain less-populated radio and television markets. This exemption was amended into the 1933 federal law (26-USCS-27) in 1961. This action recognized that most small- market broadcasters employ only a few people, who may out of economic necessity hold several positions and work in excess of 40 hours per week. This federal exemption is limited to "overtime" compensation and does not affect a broadcasters' legal responsibility to pay all affected employees the minimum wage, social security, unemployment insurance and maintain appropriate records.

First, we must identify a key element in these exemptions to federal law. The key is "small market broadcasters". All of Montana fits under the "small-market" rule except for the Billings market. Therefore, understand this afternoon we are talking about all Montana broadcasters except for those radio and television stations in Billings.

Montana's small-market broadcasters followed this federal law because they were under the assumption that federal law preempts state law on the same subject when interstate commerce is involved, and broadcasting is considered interstate commerce. The practice among small-market broadcasters statewide has been to follow this federal exemption for these three positions and offer "comp time" to these individuals at times that were less disruptive to the operations and financial well-being of the particular radio or television station. This system has worked and worked well for over 30 years in Montana. It has allowed Montana's broadcast industry to provide the community service in times of major events, disasters and news programming which professional broadcast journalism ethics, as well as the Federal Communications Commission (FCC) licensing procedure, expects of them as part of their

obligation to serve the public. In short, it has worked! Montana today enjoys some of the very best in radio and television news and public service broadcasting.

But in 1993, the rules of the game were changed. An overtime pay grievance was filed in district court in Great Falls involving a news editor. The defending television station argued it was not subject to state laws on wage and hour, but was covered by federal law; referring of course to the specific federal exemption for news editors. The district court agreed, but the plaintiff appealed to the Montana Supreme Court, which subsequently overruled the lower court. The high court said that nothing preempted states from enacting stricter regulations than federal law, and that if federal law does not cover a specific work classification, Montana law may intervene on behalf of a worker and become prevailing law. A second case in Butte later the same year received a similar ruling from the Supreme Court.

Under Montana law, an announcer, news editor or chief engineer must now be either paid one and half times the hourly wage for overtime worked, or "comp time" must be given within the same pay period. Therein lies the problem. The broadcast industry pays traditionally on a weekly basis. Therefore, any comp time must be given within the same seven-day work week. Thus we find the dilemma that Montana's small-market broadcasters find themselves. Let's suppose there is a major storm...or an airplane or train disaster...or even a major public event like a county fair. It happens on a Friday and lasts for three days. Montana's small-market broadcasters are now faced with four (4) choices. 1.) Not cover the event at all. 2.) Provide coverage of the event only to the extent that its regular staff does not exceed an eight-hour day. 3.) Cover the event and then issue overtime checks to all working staff, without any compensating revenue to pay for it. 4.) Or, cover the event and then close down its broadcasting facility for three days the next week while everyone takes comp time.

I submit to you that Montana's small market broadcasters do not have the time, talent or treasure to do anything but number one...not cover the event at all...or number two...tersely cover the event with public service notices on air, which severely cripples the professional broadcast journalism, and the FCC licensing requirements, that we all here in Montana have come to expect.

Passage of Senate Bill 80 (SB 80) will allow Montana's small market broadcasters to go back to their traditional ways of 30 years and provide you and me with the news, information and public service we have all come to expect. It will also allow Montana's small-market broadcasters to negotiate fair and suitable "comp time" with these three important positions that is not financially devastating.

Mr. Chairman and members of this committee, I ask that you read the selection of comments from some of Montana's small-market broadcasters I have passed out here this afternoon, and I ask that you listen closely to several broadcasters that have come here today to personally tell their story.

Then I ask that you give a "do pass" to SB 80. It is fair, it is workable and it takes the bureaucracy out of the control rooms, it places the employer/emplyee working relationship on the negotiating table were it belongs, and it puts affordable broadcast journalism back on the air waves of Montana..

INCLOSURES:

1.) Tesitimony from 12 small-market Montana broadcasters
2.) Definitions for federal exemptions
3.) Copy of 29-USCS-27 Federal Law exemption
4.) Definition for small-market broadcasting

SENATE LABOR & EMPLOYMENT
EXHIBIT NO._____
DATE_____
BILL NO _____

KSEN The Amazing AM
K96 WIDE OPEN COUNTRY 100,000 Watts Stereo
Serving Montana's Golden Triangle

TRI-COUNTY RADIO CORPORATION
Business Office:
830 Oilfield Ave., Shelby, Mt. 59474 (406) 434-5241
Fax: (406) 434-2122
Studios:
325 So. Main, Conrad, Mt. 594256 (406) 278-7589
102 So. Central, Cut Bank, Mt. 59427 (406) 873-2828

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To Senator Steve Benedict	From Jerry Black
Co. Senate Labor & Empl Comm.	Co. KSEN
Dept.	Phone #
Fax #	Fax # 406-434-2122

January 16, 1995

#49

TO: **Senator Steve Benedict**
Senate Labor and Employment Committee

FROM: Jerry Black, Pres/GM

It's my understanding Senate Bill (SB) 80 will be heard before your committee on Tuesday, January 17th at 1:00PM.

We strongly support this bill which would conform Montana law to the Federal "Fair Wage and Hour Law" on overtime for news directors, announcers and engineers.

Presently Montana Law permits employers to give "comp time" in lieu of overtime provided the "comp" time is given within seven (7) days.

On the surface this seems appropriate, but in actual practice, it is very restrictive and does not accomplish the intended purpose.

Example: One year ago on this date, Toole County Farmers blockaded grain trucks from dumping at local elevators. You recall the tremendous national attention focused on Shelby as the blockade continue 24 hours a day. We followed the developments day and night with "live" reports and provided daily stories to radio stations, newspapers, and even the networks. It required alot of extra hours from our staff and there was no way to plan ahead nor any way to foresee when it would end. Most stations can not afford to cover these situations which is may be why only a small handfull of Montana stations even have a fulltime new department any more.

The Federal "Small Market" exceptions recognizes these problems thus allowing greater flexibility in dealing with unpredictable news developments.

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 2
DATE 1-17-95
BILL NO. SB 80

We've had similar occurrences: Floods, blizzards, fires, and even tornados that hit Northern Montana last spring knocking Glacier County completely out of power for twenty-four hours. Glacier County authorities relied on KSEN to inform citizens listening on transistor radios what the problem was and when power could be restored. Under the present Montana law, in order to keep control of expenses, which is difficult anyway, we would have to curtail news coverage the following week. The problem is that news does not usually wait until we're ready. The public demands good coverage and seeks other sources if it's not immediately available, further eroding a stations viability.

Most Montana broadcasters assumed they were governed by Federal Law until the Montana Supreme Court ruled in 1993 that Montana Law prevailed and thus the present dilemma.

SB (80) would permit small market Broadcasters in Montana to operate under the same set of rules as their counterparts in other sections of the country.

Your support would be greatly appreciated and if needed, I would be glad to provide you with more information.

SENATE LABOR & EMPLOYMENT
EXHIBIT NO._____
DATE_____
BILL NO._____

EXHIBIT NO. 2
DATE 1-17-95
BILL NO. SB 80

Sunbrook Communications

P.O. Box 4106 • Missoula, Montana 59806 • (406) 728-9399 • Facsimile (406) 721-3020

MISSOULA - KDXT/KGRZ

The following programming features are services to the community of Missoula that would not have been possible if we had to pay time and a half overtime for announcers that worked these events.

1. Western Montana Fair:
For the past 8 years, KDXT/KGRZ has provided extensive live coverage from the Western Montana Fair. We broadcast up to 16 live breaks per day to update our listeners on the events at the fair, parking problems, etc. In addition, we sponsor a shuttle bus service through Mountain Line, which reduces the parking problems at the fair. All of this coverage requires additional hours for on-air staff, including a staff member hosting the shuttle bus each day from 4PM to midnight.

2. THANKSKGIVING ON THE MAYFLOWER:
For the 8th consecutive year, XT-93 helps raise food for the Missoula Food Bank with our Thanksgiving On The Mayflower promotion. For three days just before Thanksgiving, our morning announcer broadcasts live from a Mayflower Moving Van, asking listeners to drop off their food donations. These broadcasts are twice per hour from 7AM to 9PM. Each year, the amount of food collected for the Food Bank increases, making this an important contribution to the community.

3. PUBLIC SERVICE EVENTS:
Over the past years, XT-93 and KGRZ have provided countless hours of remote broadcasts and promotion for virtually every fund-raising race, walk, or whatever-a-thon that's held in Missoula. In every case, one of our announcers, along with the XT-93 Rolling Studio, provides on-site public address announcements for the event, as well as on-air updates for our audience. In just the past few months, we've helped these events in Missoula:

Diabetes Walk-A-Thon
Walk for Life, American Cancer Society
M.S. Walk-A-Thon
The Art Run for the Missoula Museum Of The Arts
The March of Dimes Run for Life

If time and a half had to be paid for our announcers to provide coverage of these events, we would not be able to provide this service to the community.

SENATE LABOR & EMPLOYMENT
EXHIBIT NO.
DATE
BILL NO.

Sunbrook Communications
P.O. Box 4106 • Missoula, Montana 59806 • (406) 728-9399 • Facsimile (406) 721-3020

BUTTE - KQUY/KXTL/KAAR

The following programming features are services to the community of Butte, that would not have been possible if we had to pay time and a half overtime for announcers that worked these events.

1. Butte Central Basketball and Football Broadcasts:
For over five years, KXTL has broadcast ALL the games, both at home and away for Butte Central. This community service would not be possible under the present Montana law which states that we must pay time and a half for the announcer doing these games. Butte Central is a private, small high school that does not receive the kind of community support offered the larger public high school. The Butte Central community expects us to air these games. At times, this involves a lot of effort, as Central plays games at other schools not covered by broadcasts, therefore, we must initiate extraordinary measures to get the game on the air in Butte. Additional cost of announcers would make this service impossible.

2. PRIMARY AND GENERAL ELECTION COVERAGE:
As a community service, KXTL/KQUY/KAAR has provided non-stop coverage from the courthouse on election night for both primary elections, and the general elections. This coverage has required many of our staff to work long hours into the night providing this coverage. If we were paying time and a half overtime to these announcers providing the coverage, this would not have been possible. The phone calls to the station thanking us for our coverage efforts indicatged that we have been, indeed, filling a need in the community.

3. THANKSGIVING ON THE MAYFLOWER:
For the past three years, KQUY has helped raise hundreds of dollars and many hundreds of pounds of fo d contributions for the Butte Emergency Food Bank, just prior to Thanksgiving. We broadcast live from inside a Mayflower Moving Van from 7AM - 7PM for three days in a row, asking our listeners to drop off their contributions. We couldn't provide this community support if we had to pay time an a half overtime to the announcers who are on the Mayflower.

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 2
DATE 1-17-95
BILL NO. SB 80

Sunbrook Communications
P.O. Box 4106 • Missoula, Montana 59806 • (406) 728-9399 • Facsimile (406) 721-3020

GREAT FALLS - KAAK/KXGF

As an example of a community service provided by our station which would not be able to be repeated if we had to pay time and a half overtime - last year, an auto accident killed three local high school students after a beer party. K-99 spearheaded an awareness drive, and a public forum was held at the local high school. That forum was moderated by our news director, and required many additional hours in the evenings and on the weekend.

Another example is our annual food drive for the local food bank, in which many additional hours are put in by staff members to co-ordinate the effort to raise large quanitities of food from various locations throughout town.

And, whenever a breaking local story happens, such as the shooting death of a police officer and subsequent standoff that resulted in twelve hours of uneasyness in Great Falls, our news director is required to put in many extra hours covering these stories. Our coverage would not be possible if we are required to pay time and a half for these kinds of services.

SENATE LABOR & EMPLOYMENT
EXHIBIT NO._____
DATE_____
BILL NO._____

KSEN Shelby

Questionnaire

from the

MONTANA BROADCASTERS ASSOCIATION
P.O. Box 503
Helena, MT 59624
406-442-3961

1. Were you aware of the ruling of the Montana Supreme Court concerning broadcasting and the Montana wage and hour laws?

_____Fully Aware __X__Somewhat Aware _____Not Aware At All

2. Do you agree with the Board of Directors that MBA should try to change Montana law to conform to federal wage and hour law?

__X__Yes _____No _____Undecided

3. If you agree, will you be willing to help by contacting local legislators and, if required, come to Helena to testify?

__X__Yes _____No _____Undecided

4. What major news or public affairs events have occurred, and been covered by your facility, in your broadcast area over the last five (5) years that you would not have been able to do had current Montana law been in effect? (Please describe the events, detail your coverage and explain any public reaction, awards or recognition you received because of your actions.)
(USE BACK OF THIS SHEET IF YOU NEED MORE SPACE)

JAN 12, 1994: FARM PROTEST OVER CANADIAN GRAIN IMPORTS. FARMER BLOCKED GRAINS ELEVA IN SHELBY, CUTBANK, CONRAD FOR 8 WKS BEGINNING 7AM on 1/12/94. SERIES OF EXTENTED MTGS WITH CONGESSIONAL DELEGATION AND CULMINATING WITH INTERNATIONAL TRADE COMMISSION HEARING IN SHELBY ON APR 12, 1994. 0 HOURS+ hours OF EXTENDED NEWS COVERAGE with mobile units, LIVE EXTENDED COVERAGE OF MTGS. WON MONTANA BROADCASTER'S NEWS ENTERPRISE OF THE YEAR AWARD FOR COVERAGE. MANY FARM PROTESTS WERE STAGED WITHOUT ANY ADVANCE NOTICE AND REQUIRED IMMEDIATE COVERAGE WITH NEWS REPORTS AND STORIES SENT STATEWIDE, AND TO SEVERAL CANADIAN AND U.S. NETWORKS. ABSOLUTELY COULD NOT HAVE BEEN DONE AS PRESCRIBED by CURRENT LAW HAD WE BEEN AWARE OF IT. DUE TO THE MANY HOURS INVOLVED, ADMINISTRATORS AND SOME DEPARTMENT HEADS WERE PRESSED INTO SERVICE WHICH DID NOT LEND ITSELF TO THE BEST PROFESSIONAL JOB WE WERE CAPABLE OF AND LIMITED SOME OF THE MORE EXTENSIVE COVERAGE AND INTERVIEWS WE WOULD HAVE LIKED TO DO.

(OVER)

5. Name any legislators you know personally and to whom you would be willing to make a presentation on the proposed MBA legislation.

Rep. GARY FELAND, Shelby
SEN. GARY AKELSTAD, GALATA
SEN DEL GAGE, CUTBANK
REP SAM ROSE, CHOTEAU

MORE INFORMATION: Call Don Bradley (KRTV 3) 1-406-791-5410

REP. HARRIET HAYNE, DUPUYER

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 2
DATE 1-17-95
BILL NO. SB 80

called 1-14-95 OK

Eagle KECI-KFBB KTVM-TV June English 721-2063

Questionnaire

from the

MONTANA BROADCASTERS ASSOCIATION
P.O. Box 503
Helena, MT 59624
406-442-3961

Missoula

1. Were you aware of the ruling of the Montana Supreme Court concerning broadcasting and the Montana wage and hour laws?

X Fully Aware _____Somewhat Aware _____Not Aware At All

2. Do you agree with the Board of Directors that MBA should try to change Montana law to conform to federal wage and hour law?

X Yes _____No _____Undecided

3. If you agree, will you be willing to help by contacting local legislators and, if required, come to Helena to testify?

X Yes _____No _____Undecided

4. What major news or public affairs events have occurred, and been covered by your facility, in your broadcast area over the last five (5) years that you would not have been able to do had current Montana law been in effect? (Please describe the events, detail your coverage and explain any public reaction, awards or recognition you received because of your actions.)
(USE BACK OF THIS SHEET IF YOU NEED MORE SPACE)

The Vilensky Standoff-Missoula We covered nearly 24Hrs. around the clock for 1 we
Military planecrash near Chinook
Yellowstone Fire
Congressional Debates
Legislative Coverage
Snowmobilers killed by Avalanche
Glacier Park train derailments
Oil spill at Whitefish Lake
"Your Town" series: live newscasts from outlying area towns

5. Name any legislators you know personally and to whom you would be willing to make a presentation on the proposed MBA legislation.

Senator Bob Brown / Fred VanValkenburg

MORE INFORMATION: Call Don Bradley (KRTV 3) 1-406-791-5410

SENATE LABOR & EMPLOYMENT

EXHIBIT NO._____

DATE_____

BILL NO._____

KXLO-KLCM newsroom

Questionnaire

from the

MONTANA BROADCASTERS ASSOCIATION
P.O. Box 503
Helena, MT 59624
406-442-3961

1. Were you aware of the ruling of the Montana Supreme Court concerning broadcasting and the Montana wage and hour laws?

_____Fully Aware _____Somewhat Aware __X__Not Aware At All

2. Do you agree with the Board of Directors that MBA should try to change Montana law to conform to federal wage and hour law?

__X__Yes _____No _____Undecided

3. If you agree, will you be willing to help by contacting local legislators and, if required, come to Helena to testify?

__X__Yes _____No _____Undecided

4. What major news or public affairs events have occurred, and been covered by your facility, in your broadcast area over the last five (5) years that you would not have been able to do had current Montana law been in effect? (Please describe the events, detail your coverage and explain any public reaction, awards or recognition you received because of your actions.)

(USE BACK OF THIS SHEET IF YOU NEED MORE SPACE)

TO NUMEROUS TO MENTION —
PROBABLY A DOZEN OR MORE —

5. Name any legislators you know personally and to whom you would be willing to make a presentation on the proposed MBA legislation.

John Hertel, Larry Grimes, Dick Knox

MORE INFORMATION: Call Don Bradley (KRTV 3) 1-406-791-5410

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 2
DATE 1-17-95
BILL NO. SB 80

KPAX-TV Missoula

Questionnaire

from the

MONTANA BROADCASTERS ASSOCIATION
P.O. Box 503
Helena, MT 59624
406-442-3961

1. Were you aware of the ruling of the Montana Supreme Court concerning broadcasting and the Montana wage and hour laws?

X Fully Aware _____Somewhat Aware _____Not Aware At All

2. Do you agree with the Board of Directors that MBA should try to change Montana law to conform to federal wage and hour law?

X Yes _____No _____Undecided

3. If you agree, will you be willing to help by contacting local legislators and, if required, come to Helena to testify?

X Yes _____No _____Undecided

4. What major news or public affairs events have occurred, and been covered by your facility, in your broadcast area over the last five (5) years that you would not have been able to do had current Montana law been in effect? (Please describe the events, detail your coverage and explain any public reaction, awards or recognition you received because of your actions.)
(USE BACK OF THIS SHEET IF YOU NEED MORE SPACE)

Two examples include the Ivan Valensky Hostage Standoff & the 1994 Fire season. In both cases we paid considerable overtime Due to the Supreme Court ruling

5. Name any legislators you know personally and to whom you would be willing to make a presentation on the proposed MBA legislation.

MORE INFORMATION: Call Don Bradley (KRTV 3) 1-406-791-5410

SENATE LABOR & EMPLOYMENT
EXHIBIT NO.
DATE
BILL NO.

KDZN-TV
Glendive

Questionnaire

from the

MONTANA BROADCASTERS ASSOCIATION
P.O. Box 503
Helena, MT 59624
406-442-3961

1. Were you aware of the ruling of the Montana Supreme Court concerning broadcasting and the Montana wage and hour laws?

_____Fully Aware _____Somewhat Aware X Not Aware At All

2. Do you agree with the Board of Directors that MBA should try to change Montana law to conform to federal wage and hour law?

X Yes _____No _____Undecided

3. If you agree, will you be willing to help by contacting local legislators and, if required, come to Helena to testify?

X Yes _____No _____Undecided

4. What major news or public affairs events have occurred, and been covered by your facility, in your broadcast area over the last five (5) years that you would not have been able to do had current Montana law been in effect? (Please describe the events, detail your coverage and explain any public reaction, awards or recognition you received because of your actions.)
(USE BACK OF THIS SHEET IF YOU NEED MORE SPACE)

2 Diffrent Aspects of the overtime delemia would include when the Gulf War broke out we were live on the air for 6 extra hrs. Then just this past june we had a Cruise Night that had the D.J. working for 10 hrs straight.

5. Name any legislators you know personally and to whom you would be willing to make a presentation on the proposed MBA legislation.

MORE INFORMATION: Call Don Bradley (KRTV 3) 1-406-791-5410

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 2
DATE 1-17-95
BILL NO. SB 80

KMON A/F G.Falls

Questionnaire

from the

MONTANA BROADCASTERS ASSOCIATION
P.O. Box 503
Helena, MT 59624
406-442-3961

1. Were you aware of the ruling of the Montana Supreme Court concerning broadcasting and the Montana wage and hour laws?

_____Fully Aware _X_ Somewhat Aware _____Not Aware At All

2. Do you agree with the Board of Directors that MBA should try to change Montana law to conform to federal wage and hour law?

_X_ Yes _____No _____Undecided

3. If you agree, will you be willing to help by contacting local legislators and, if required, come to Helena to testify?

_X_ Yes _____No _____Undecided

4. What major news or public affairs events have occurred, and been covered by your facility, in your broadcast area over the last five (5) years that you would not have been able to do had current Montana law been in effect? (Please describe the events, detail your coverage and explain any public reaction, awards or recognition you received because of your actions.)
(USE BACK OF THIS SHEET IF YOU NEED MORE SPACE)

Appox 1989 STORM IN GREAT FALLS - DESTROYED BUILDINGS, SIGNS, ETC. NUMEROUS FIRES CITY AND STATE, ICODE FIRE. RECENT [redacted] POLICE - MAN SHOT : STAND OFF, PLUS WE ARE THE PRIMARY FEBS STATION WHAT IF??

5. Name any legislators you know personally and to whom you would be willing to make a presentation on the proposed MBA legislation.

MORE INFORMATION: Call Don Bradley (KRTV 3) 1-406-791-5410

John Jenst KMON

SENATE LABOR & EMPLOYMENT
EXHIBIT NO.
DATE
BILL NO.

KLYQ Hamilton

Questionnaire

from the

MONTANA BROADCASTERS ASSOCIATION
P.O. Box 503
Helena, MT 59624
406-442-3961

1. Were you aware of the ruling of the Montana Supreme Court concerning broadcasting and the Montana wage and hour laws?

_____Fully Aware _____Somewhat Aware ___✓___Not Aware At All

2. Do you agree with the Board of Directors that MBA should try to change Montana law to conform to federal wage and hour law?

___✓___Yes _____No _____Undecided

3. If you agree, will you be willing to help by contacting local legislators and, if required, come to Helena to testify?

___✓___Yes _____No _____Undecided

4. What major news or public affairs events have occurred, and been covered by your facility, in your broadcast area over the last five (5) years that you would not have been able to do had current Montana law been in effect? (Please describe the events, detail your coverage and explain any public reaction, awards or recognition you received because of your actions.)
(USE BACK OF THIS SHEET IF YOU NEED MORE SPACE)

Wand Mountain Fire, South of Hamilton - potential loss of lives & property. Our News Director stayed up all night Sunday evening & Monday morning with hourly reports. Would have amounted to 14 hours comp time the next week. He will be compensated a day at a time, over the next month or so.

5. Name any legislators you know personally and to whom you would be willing to make a presentation on the proposed MBA legislation.

I AM A STATE REP. & AM RUNNING for State Senate

MORE INFORMATION: Call Don Bradley (KRTV 3) 1-406-791-5410

STEVE BENEDICT
HAMILTON, MT

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 2
DATE 1-17-95
BILL NO. SB 80

Robert G. Good, M.D.
1151 Judd Creek Hollow
Hamilton, Mt. 59840
October 2, 1994

Mr. Steve Benedict
General Manager,
KLYQ Radio
P. O. Box 668
Hamilton, Mt. 59840

Dear Mr. Benedict:

Kathy and I want to thank you and KLYQ for your essential role in reporting by radio the events surrounding control of the Ward Mountain fire. We are sure all of the residents of Roaring Lion, Whispering Pines and Judd Creek Hollow want to join us in our thanks.

In the early hours of the fire late Sunday night and Monday morning, most of us could hear and smell the fire, but because of the dense timber near our homes, we were unable to see what was happening. During that time, it became clear that the deluge of phone calls to the Sheriff's department, forest service, and fire department accomplished little more than clog already busy phone lines. KLYQ, by reporting hourly updates on the fire, helped alleviate this problem and provided precise, dependable information to area residents.

It is entirely clear that KLYQ is the Bitterroot Valley's essential resource in providing information to our residents during any civil emergency. We hope you will agree with this important responsibility. Certainly, as we look at the concept of disaster planning for our valley, your contribution will be as important as that of any of the local government agencies.

Once again, we want to express our very personal thanks.

Sincerely,

Robert G Good.

Robert G. Good, M.D.

CC: Mr. Ronald Curley, Ravalli County Disaster
and Emergency Services Co-ordinator

KC&M Scobey

Questionnaire

from the

SENATE LABOR & EMPLOYMEN
EXHIBIT NO.
DATE
BILL NO.

MONTANA BROADCASTERS ASSOCIATION
P.O. Box 503
Helena, MT 59624
406-442-3961

1. Were you aware of the ruling of the Montana Supreme Court concerning broadcasting and the Montana wage and hour laws?

____Fully Aware ____Somewhat Aware ✓ Not Aware At All

2. Do you agree with the Board of Directors that MBA should try to change Montana law to conform to federal wage and hour law?

✓ Yes ____No ____Undecided

3. If you agree, will you be willing to help by contacting local legislators and, if required, come to Helena to testify?

✓ Yes ____No ____Undecided

4. What major news or public affairs events have occurred, and been covered by your facility, in your broadcast area over the last five (5) years that you would not have been able to do had current Montana law been in effect? (Please describe the events, detail your coverage and explain any public reaction, awards or recognition you received because of your actions.)

(USE BACK OF THIS SHEET IF YOU NEED MORE SPACE)

Round the Clock Fire Coverage -
" " " Coverage during Killer Winter Storms. -

5. Name any legislators you know personally and to whom you would be willing to make a presentation on the proposed MBA legislation.

Darrell Toavs - John Brenden, Linda Nelson

MORE INFORMATION: Call Don Bradley (KRTV 3) 1-406-791-5410

KCGM-FM
Dick Halverson - Scobey MT.

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 2
DATE 1-17-95
BILL NO. SB 80

INFORMATION AND DEFINITIONS ON THE SMALL MARKET EXEMPTIONS FOR BROADCASTERS

RE: Fair Labor Standards Act 29 U.S.C. 201-219 (1988)

In 1961 Congress provided an exemption from the FLSA's overtime requirements for certain employees of broadcasters located in less-populated areas. This exemption recognized that some small market broadcasters employ only a few people, who may out of necessity hold several positions and work in excess of 40 hours in a week. Broadcasters who fall within this exemption are still obligated to pay all affected employees the minimum wage and maintain appropriate records.

The statutory exemption is applicable to announcers, news editors and chief engineers who devote at least 50 percent of their work to the duties defined in the statue and are employed in "small markets", as defined by the FLSA.

In Montana all broadcast facilities are included within the small market definition except Billings.

DEFINITIONS:

Announcers -- For purposes of the exemption, an announcer is an employee who appears before the microphone or camera to introduce programs, read news announcements, present commercial messages, give station identification or time signals and present other similar routine on-the-air material. In addition, an announcer may operate the studio control board, give cures to the control room for switching programs, make recordings, make the necessary preparations for the day's programs, play records or write promotional and/or advertising copy.

News Editors -- Under wage and hour law, a news editor is an employee who gathers, edits and rewrites the news. Someone who selects and prepares news items for broadcast or presents the news on the air may also qualify as a news editor.

Chief Engineers -- A chief engineer covered by the overtime exemption is the station employee who primarily supervises the operation, maintenance and repair of all the electronic equipment in the studio and the transmitter. It is irrelevant how many station employees have as their primary duty the maintenance of equipment. Only one employee may qualify for the chief engineer exemption.

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E. The "Small Market" Exemptions

In 1961 Congress provided an exemption from the FLSA's overtime requirements for certain employees of broadcasters located in less-populated areas. This exemption recognized that some small market broadcasters employ only a few people, who may out of necessity hold several positions and work in excess of 40 hours in a week. Broadcasters who fall within this exemption are still obligated to pay all affected employees the minimum wage and maintain appropriate records.

The statutory exemption is applicable to announcers, news editors, and chief engineers when the studio is located:

(a) in a city with a population of less than 100,000, provided that the city is not part of a standard metropolitan statistical area (SMSA) which has a population of more than 100,000; or

(b) in a city with a population of less than 25,000, even if part of a larger SMSA, so long as the city is located at least 40 miles from the principal city of the area.

Consequently, the exemption is narrow and applies only to a limited number of broadcast employers and employees. An employer has the burden to demonstrate the applicability of the exemption to a particular employee.

Col) 26 BNA FEP Cas 959, 26 BNA WH Cas 1023, 24 CCH EPD ¶ 31364.

Since wrong of denying promotions was separate from wrong of paying employees inadequately, district court's construction of back-pay award to compensate employees for both does not provide duplicate recovery under Equal Pay Act; moreover, for same reasons that plaintiffs are entitled under Title VII to front pay as compensation for losses which will be suffered in future for failure to promote, front pay should be awarded as Equal Pay Act recovery. Thompson v Sawyer (1982) 219 App DC 393, 678 F2d 257, 28 BNA FEP Cas 1614, 25 BNA WH Cas 614, 28 CCH EPD ¶ 32668, 94 CCH LC ¶ 34186, 33 FR Serv 2d 1553, later proceeding (1984, DC Dist Col) 586 F Supp 635, 34 BNA FEP Cas 1327, 34 CCH EPD ¶ 34432, later proceeding (1984, DC Dist Col) 599 F Supp 806, 36 BNA FEP Cas 817, 36 CCH EPD ¶ 35021, later proceeding (1986) 254 App DC 348, 797 F2d 1015, 41 BNA FEP Cas 1435, 41 CCH EPD ¶ 36469, cert den (1987) 480 US 905, 94 L Ed 2d 518, 107 S Ct 1347, 43 BNA FEP Cas 80, 42 CCH EPD ¶ 36796, later proceeding (1987) 89 TC 632, 44 BNA FEP Cas 1457, affd (1989, CA4) 866 F2d 709, 48 BNA FEP Cas 1649, 29 BNA WH Cas 181, 49 CCH EPD ¶ 38720, 111 CCH LC ¶ 35198, 89-1 USTC ¶ 9164, 63 AFTR 2d 89-677 and revd on other grounds (1988) 266 App DC 452, 836 F2d 616, 47 BNA FEP Cas 2, 45 CCH EPD ¶ 37628, on remand (1989, DC Dist Col) 710 F Supp 1, 50 CCH EPD ¶ 38999.

In view of element of discretion in awards of liquidated damages under Portal to Portal Act (29 USCS § 260), issue of liquidated damages under Equal Pay Act (29 USCS § 206(b)) must be determined by court. Altman v Stevens Fashion Fabrics (1977, ND Cal) 441 F Supp 1318, 17 BNA FEP Cas 1085, 16 CCH EPD ¶ 8255, 17 CCH EPD ¶ 8640, 83 CCH LC ¶ 33646, 26 FR Serv 2d 152.

Equal Pay Act (29 USCS § 626(d)) does not authorize recovery of compensatory damages in addition to liquidated damages, and monetary value of plaintiff's emotional and physical harm is therefore not relevant to amount of recovery on EPA claim. Altman v Stevens Fashion Fabrics (1977, ND Cal) 441 F Supp 1318, 17 BNA FEP Cas 1085, 16 CCH EPD ¶ 8255, 17 CCH EPD ¶ 8640, 83 CCH LC ¶ 33646, 26 FR Serv 2d 152.

Backpay may be awarded under Equal Pay Act for period after employee left job, where employee prevails on her Title VII claim and establishes that she was not paid comparably to similarly situated male employees, since she would thus be entitled to damages in form of backpay, and she would be allowed to recover wage she should have earned rather than wage she was actually paid. Weiss v Coca-Cola Bottling Co. (1991, ND Ill) 772 F Supp 407, 56 BNA FEP Cas 1612, 30 BNA WH Cas 955, 57 CCH EPD ¶ 41221, 120 CCH LC ¶ 35571.

92. —Punitive damages

Punitive damages are not recoverable under Equal Pay Act, nor may former employee alleging discrimination recover front pay where no improper discharge is alleged and no relief in nature of reinstatement is sought. Forsberg v Pacific Northwest Bell Tel. Co (1985, DC Or) 623 F Supp 117, 38 CCH EPD ¶ 35507, 2 FR Serv 3d 347, on reconsideration (1985, DC Or) 622 F Supp 1147, 38 CCH EPD ¶ 35508, later proceeding (1985, DC Or) 622 F Supp 1150, 38 CCH EPD ¶ 35684, 103 CCH LC ¶ 34746, affd (1988, CA9 Or) 840 F2d 1409, 45 CCH EPD ¶ 37755, amd on other grounds (1988, CA9 Or) 46 CCH EPD ¶ 37996.

93. Attorneys' fees

Prevailing defendant was not entitled to award of attorneys' fees in Equal Pay Act (29 USCS § 206(d)) suit in view of lack of statutory authorization for such award and fact that plaintiff's contentions were not totally devoid of merit or otherwise reflective of bad faith. Horner v Mary Institute (1980, CA8 Mo) 613 F2d 706, 21 BNA FEP Cas 1069, 24 BNA WH Cas 436, 22 CCH EPD ¶ 30565, 88 CCH LC ¶ 33880.

94. Prejudgment interest

Prejudgment interest is proper and allowable component of backpay award for violation of 29 USCS § 206(d) because injured worker must be restored to economic position in which worker would have been but for discrimination. Davis v Jobs for Progress, Inc. (1976, DC Ariz) 427 F Supp 479, 18 BNA FEP Cas 59, 14 CCH EPD ¶ 7624.

§ 207. Maximum hours

(a) Employees engaged in interstate commerce; additional applicability to employees pursuant to subsequent amendatory provisions. (1) Except as otherwise provided in this section, no employer shall employ any of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, for a workweek

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longer than forty hours unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed.

(2) No employer shall employ any of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, and who in such workweek is brought within the purview of this subsection by the amendments made to this Act [29 USCS §§ 201et seq., generally; for full classification, consult USCS Tables volumes] by the Fair Labor Standards Amendments of 1966—

(A) for a workweek longer than forty-four hours during the first year from the effective date of the Fair Labor Standards Amendments of 1966 [Feb. 1, 1967],

(B) for a workweek longer than forty-two hours during the second year from such date, or

(C) for a workweek longer than forty hours after the expiration of the second year from such date,

unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed.

(b) Employment pursuant to collective bargaining agreement; employment by independently owned and controlled local enterprise engaged in distribution of petroleum products. No employer shall be deemed to have violated subsection (a) by employing any employee for a workweek in excess of that specified in such subsection without paying the compensation for overtime employment prescribed therein if such employee is so employed—

(1) in pursuance of an agreement, made as a result of collective bargaining by representatives of employees certified as bona fide by the National Labor Relations Board, which provides that no employee shall be employed more than one thousand and forty hours during any period of twenty-six consecutive weeks; or

(2) in pursuance of an agreement, made as a result of collective bargaining by representatives of employees certified as bona fide by the National Labor Relations Board, which provides that during a specified period of fifty-two consecutive weeks the employee shall be employed not more than two thousand two hundred and forty hours and shall be guaranteed not less than one thousand eight hundred and forty hours (or not less than forty-six weeks at the normal number of hours worked per week, but not less than thirty hours per week) and not more than two thousand and eighty hours of employment for which he shall receive compensation for all hours guaranteed or worked at rates not less than those applicable under the agreement to the work performed and for all hours in excess of the guaranty which are also in excess of the maximum workweek applicable to such employee under subsection (a) or two thousand and eighty in such period at rates not less than one and one-half times the regular rate at which he is employed; or

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(6) any employee employed as a seaman; or

(7), (8) [Repealed]

(9) any employee employed as an announcer, news editor, or chief engineer by a radio or television station the major studio of which is located (A) in a city or town of one hundred thousand population or less according to the latest available decennial census figures as compiled by the Bureau of the Census, except where such city or town is part of a standard metropolitan statistical area, as defined and designated by the Bureau of the Budget, which has a total population in excess of one hundred thousand, or (B) in a city or town of twenty-five thousand population or less, which is part of such an area but is at least 40 airline miles from the principal city in such area; or

(10)(A) any salesman, partsman, or mechanic primarily engaged in selling or servicing automobiles, trucks, or farm implements, if he is employed by a nonmanufacturing establishment primarily engaged in the business of selling such vehicles or implements to ultimate purchasers; or

(B) any salesman primarily engaged in selling trailers, boats, or aircraft, if he is employed by a nonmanufacturing establishment primarily engaged in the business of selling trailers, boats, or aircraft to ultimate purchasers; or

(11) any employee employed as a driver or driver's helper making local deliveries, who is compensated for such employment on the basis of trip rates, or other delivery payment plan, if the Secretary shall find that such plan has the general purpose and effect of reducing hours worked by such employees to, or below, the maximum workweek applicable to them under section 7(a) [29 USCS § 207(a)]; or

(12) any employee employed in agriculture or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, or operated on a sharecrop basis, and which are used exclusively for supply and storing of water for agricultural purposes; or

(13) any employee with respect to his employment in agriculture by a farmer, notwithstanding other employment of such employee in connection with livestock auction operations in which such farmer is engaged as an adjunct to the raising of livestock, either on his own account or in conjunction with other farmers, if such employee (A) is primarily employed during his workweek in agriculture by such farmer, and (B) is paid for his employment in connection with such livestock auction operations at a wage rate not less than that prescribed by section 6(a)(1) [29 USCS § 206(a)(1)]; or

(14) any employee employed within the area of production (as defined by the Secretary) by an establishment commonly recognized as a country elevator, including such an establishment which sells products and services used in the operation of a farm, if no more than five employees are employed in the establishment in such operations; or

(15) any employee engaged in the processing of maple sap into sugar (other than refined sugar) or syrup; or

EAGLE COMMUNICATIONS, INC.

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SENATE LABOR & EMPLOYMENT RELATIONS COMMITTEE
Submitted January 17, 1995

Mr. Chairman and members of the committee, my name is Jane English. I am Executive Vice President of Eagle Communications which operates the NBC affiliated television stations in Missoula, Kalispell, Butte and Bozeman.

As business manager for this company for 15 years, I have an accountant's bottom-line perspective on why your support of Senate Bill 80 is so important to our business.

Eagle Communications is a Montana-owned company that employs 84 people. Thirty-seven of those employees work in our news departments on a full or part-time basis. We currently provide eleven hours of local news programming each week, seven nights a week. We consider local news, weather and sports a vital part of our service to our communities, but it is, by far, the most costly to provide.

Prior to the 1993 Supreme Court ruling we followed the federal "small market exemption" guidelines granted by Congress in 1961. This exemption recognized that small market broadcasters like ours in Montana have limited resources and that some employees may, out of necessity, work an excess of 40 hours in a week. To compensate, we at Eagle tried to give news employees higher rates of pay and the company maintained, on an informal basis, a liberal policy regarding time off. Now, under the new rules, we are paying a premium rate for those hours because they are deemed overtime. This obviously has put an unexpected financial burden on our company and seriously impacted our news operation.

In 1992 our company took a very bold step and purchased an SNG or satellite news gathering truck. Because we cover 45% of Montana this technology allowed us to go anywhere, bring the news back to our viewers live and, indeed, uplink our news to anywhere in the world. A couple of examples of what we were able to do: We sent a crew to Chinook, Montana when the military plane crashed and delivered news reports not only to our viewers but to viewers in the entire Pacific Northwest. We covered the Vilensky standoff in Missoula around the clock and President Clinton's timber conference in Portland.

Today, I doubt that we could afford to cover these events. Overtime pay either prohibits us from using our truck or limits its effectiveness. An example of this limitation is our coverage of the 1995 legislative session. We have the satellite truck. We have a reporter. But, we can't afford to have them here on a full time basis.

This issue of overtime pay puts management at odds with our own news departments. In the past we felt secure in using our resources where and when they were needed. We now have to stop, calculate what the coverage will cost in overtime and make compromising decisions - decisions that are in conflict with our news objectives and the viewers' best interest. Also, ongoing concerns about hard-to-control overtime, have stalled the process of giving pay increases.

Unfortunately, our only answer has been to make cuts. Yet in spite of our efforts, overtime continues to increase news costs by nearly 10%. None of these dollars were budgeted nor can we continue to pay them. We have some tough decisions to make as we plan our next fiscal year.

I respectfully ask for your support of Senate Bill 80.

EAGLE COMMUNICATIONS, INC.

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January 13, 1995

Senator Steve Benedict
Senate Labor & Employment Relations Committee
State Capitol
Helena, Montana 59601

Dear Steve,

Senate Bill (SB) 80 is critical to the effective maintenance of our broadcasting facilities as well as our ability to continue to provide local news, weather and sports coverage to our viewers. Please give it serious consideration and support.

Sincerely,

Robert H. Precht

RHP/jz

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Testimony opposing **Senate Bill 80**
by Matt Raymond, Montana Television Network
17 January 1995

Mr. Chairman and members of the committee, for the record, my name is Matt Raymond, and I'm the State Capital Bureau Chief for the Montana Television Network, serving stations in Billings, Great Falls, Missoula, Butte, Bozeman, Kalispell and Glendive. I rise in strong opposition to Senate Bill 80.

Ordinarily you'd find me on the other side of this podium, covering the remarks of others for a statewide television audience. But the personal affront created by this bill has compelled me to abandon any semblance of impartiality on this issue and to tell you why this bill is wrong for me and hundreds of others like me around Montana ... as well as for our state's broadcast industry in general.

I find it ironic that this bill would come up before the Senate Labor and Employment Relations Committee when it would benefit neither labor nor employment relations. Perhaps a more fitting venue would be the Business and Industry Committee since those are the interests that would apparently be served by this bill. But if supporters of Senate Bill 80 harbor motives of corporate greed or the save-a-buck mentality ... then these motives are sadly misguided.

This bill intends to subvert a Montana Supreme Court decision and eliminate the payment of overtime for broadcast news employees by making us subject to the federal Fair Labor Standards Act. In essence the message this bill sends is that the federal government knows what's best for Montana. This message runs directly counter to the feelings expressed in Governor Racicot's State-of-the-State address ... and to the sentiments expressed by the voters who sent you here.

The FLSA exempts broadcast employees from overtime pay in cities of less than 100,000 people ... ostensibly because smaller markets with smaller budgets hire fewer people and work them longer hours to compensate. Placing every television market in Montana under the purview of this law is an insult to the small-town sensibilities of Montanans. It's absurd to think that simply because you are a broadcast reporter in a smaller city that you should not be entitled to the same considerations as your colleagues in larger cities. I've worked in TV news in two cities with more than 100,000 people, and I can assure you that the necessity for overtime pay there was no different than it is here. Why then would you be willing to put Montana news at a disadvantage to that of most of the rest of the nation?

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The Montana media are widely regarded for their professionalism and quality news product. We have ably overcome the challenges of small news staffs and the distance that separates us to cover the news with the comprehensiveness and efficiency of much larger markets. Pound-for-pound, if you will, we have the best news in the country. On a personal note, I was attracted to my job here from a much larger market not only because of my love of Montana and the West but also because I knew I was coming to a place where I would be paid without hesitation for the hours I work. Senate Bill 80 will undoubtedly diminish the quality of Montana news.

On its surface, the bill sounds like a good idea: Do away with overtime, convert to a system of comp time, and use overtime budgets to hire new workers to pick up the slack. But SB80 has been crafted either without consideration of or with blatant disregard for reality and the unique nature of journalism. You see, as much as we would like to think news is an eight-hour-a-day, 40-hour-a-week business, it is actually a round-the-clock job. News does not stop simply because it's five o'clock or because it's the weekend.

A system of purely comp time would be unworkable, especially when you look at the nature of many of the stories we cover. If Montana is on fire, news personnel put in longer hours. If the fires worsen and workers rack up comp time, at some point in the future newsrooms would face the prospect of skeleton crews to do a job that has little regard for the calendar.

In my mind, the cavalier proposal of this bill amounts to ... and let me make this perfectly clear ... a prior restraint on the news media. By restricting the hours we are able to work, you are in turn restricting our ability to cover the news. Through a direct legislative act, you would make the tough decisions about what we will and won't report even more difficult to make. What would your constituents think if a story that doesn't make the final cut because of short-staffing ends up having a direct impact on their lives?

In theory ... using overtime budgets to hire extra personnel might solve some of these problems. But in practice, newsrooms would be no better off financially or in terms of their ability to cover the news. Most newsrooms I'm aware of have just enough equipment to serve their current workers. The law of diminishing returns comes into play if you hire new workers without giving them the tools of their trade. Therefore, to make the new employees productive, stations would be compelled to spend even more money on equipment.

What choices would a station be forced to make in hiring new workers? I use my own position as an example. You are

looking at the State Capital Bureau of the Montana Television Network. I take the pictures, I ask the questions, I edit the videotape, I write the stories. When you force me to "comp out," you shut down my network's ability to cover news in Helena. Suppose my network hires another worker in Helena to help me out. In order to keep costs where they are now, that would mean taking my salary plus overtime and dividing by two. Most people would laugh at working for money like that, especially someone with all the skills necessary to do this job. To pay any sort of competitive salary would drive up corporate costs past their current levels. That means higher advertising rates, which translates into higher costs for consumers, your constituents.

Perhaps supporters of Senate Bill 80 are suffering under the delusion that there's rampant abuse of the overtime system in news. Such an assumption could hardly be further from the truth. I have never heard of a single incident of a news employee inflating the hours they record on a time sheet. On the contrary, most reporters I know including myself tend to overcompensate in the other direction. We often put down fewer hours than we work for fear of losing the only system we know that really works. Comp time doesn't put food on the table. But you can rest assured that under a prohibition on being paid for more than 40 work-hours a week, we will be much less charitable to our employers.

Included in my opposition to comp time is the simple notion of equity. All I ask is to be paid for the time I work and for the ability of my industry to do the job our Founding Fathers saw important enough to include in the very First Amendment to the U.S. Constitution. A system of comp time is open to unfairness and confusion. Pressure would be put on certain employees to under-report their hours so as not to lose all those workers when they comp out at the end of a calendar year. Comp time ignores the fact that working a 16-hour day is not the same as working two eight-hour days. On my busiest of days, my stress level increases immeasurably and I often miss meals. Asking me to compensate by not coming in the next day is little consolation, and it fails to recognize the contributions I make on such busy news days.

Senate Bill 80 is a mistake. It's a mistake for broadcast journalists, it's a mistake for the people who pay them, and it's a mistake for the people of Montana, who would be poorly served by its passage. I ask that you recommend that Senate Bill 80 **DO NOT PASS.** Thank you.

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January 17, 1995

The Montana State Senate Labor Committee

Submitted by Daniel J. Rapkoch
135 Avenue C
Billings, MT 59101
(406) 256-0149

Mr. Chairman and Members of the Committee:

First of all I want you as lawmakers to keep a question in your mind as you ponder the bill you have before you today. Why are we hearing a bill today that rewards incompetence and morally reprehensible behavior?

That is what Senate Bill 80 is. It is a disgusting attempt by the owners and managers of radio and television station in this state to seek yet another subsidy from the government. From their sponsorship of Senate Bill 80, it appears that Montana broadcasters are pleading poverty and that they can't operate without special help from the state government. Well, let's set the issue straight!

The Federal Communication Commission only allows for a finite number of radio and television stations to be built in a given community. Thus, the broadcasters of this state are shielded from true competition!

Next, the broadcasters want you to reinstate the 1938 Federal Fair Labor Act, to exclude announcers, news people and engineers from getting paid for doing their job. That's rich! They want Montana's Legislature to throw out a 7-0 decision from the Montana State Supreme Court granting overtime, to instead reinstate depression era legislation.

Have they no shame?

Here are some numbers to ponder when considering the poor broadcasters of Montana and their plight against their over paid employees.

The average television news person, if they are lucky might make 13,000 dollars a year. They must be college educated, and be available whenever news dictates. In Montana, traditionally they are fresh out of college and are looking for their first opportunity. If this bill becomes law, you as lawmakers are saying that employees who are barely making it must now subsidize the broadcast station owner. You are penalizing these young men and woman by making them indentured servants to the broadcast owners.

Let's offset the 13,000 dollar salary with a few examples... Within the past month, television station KTVQ was sold by SJL limited Partnership of Montana to Evening Post communications of

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Charleston, South Carolina for 8.5 million dollars cash.

Evening Post also recently purchased KCTZ-TV in Bozeman, as well, and the company also owned stations KXLF in Butte, KPAX in Missoula, and KRTV in Great Falls. They bought those station in 1984 for 24.1 million dollars.

All told, this multimillion dollar corporation which owns television stations in Boise, Tucson and Colorado Springs, along with newspapers and various other media entities across the United States and around the world spent over 35 million dollars to get a piece of the television industry in Montana. ~~And today, they as members of the~~ Montana Broadcasting Association come before this committee, hat in hand asking for a break from having to pay overtime to the people who work diligently to give them a product to sell? ~~This is ridiculous~~.

Radio stations in Montana sold

For record ~~Sales prices in July 87 Quarterly Report you in~~ ~~Broadcasting Magazine. Yet, Bozeman Broadcasters~~ ~~KBOZ purchased KLTQ in Hamilton for how much? $750,000 dollars~~ ~~I know.~~ (Now, ~~I~~ those owners want to penalize those employees that help pay off that debt. I submit to you ~~sir~~, if ~~they~~ now have regrets about how much you paid for that property, then ~~they~~ should sell ~~it~~ for what ~~they~~ can, and allow someone who can effectively operate that station to do so!

When my father invested in a radio station in Dillon, Montana, he didn't come to the state government to bail him out. It lost money! Lots of money, and he and his partner had to sell at a loss. But, I have never heard my father who has worked in broadcasting in this state for 40 years once say that he'd seek special relief from the government!

The radio and television station owners are not what you'd consider mom and pop businesses. Eagle Communications, which operates stations in Missoula, Butte, Bozeman and Kalispell is not a shoe string operation. Dix Communications which owns stations in Great Falls and Billings is not operating out of somebody's garage. Fischer Communication of Seattle, Washington, which has recently purchased radio stations in Billings, Great Falls, Missoula and Butte isn't just a bunch of poor folk scratching out a living in some two dollar an acre soil. They own television and radio properties in Seattle and Portland and they decided to expand into Montana because they see good income possibilities.

Even the owners of the 1000 watt coffee pots, can't complain about being poor beggars. My father works for KXLO-KLCM in Lewistown and he owns a little interest in the FM station. If the majority owner wanted to sell his station today, he'd be able to fetch a hefty price, because his station is a valuable commodity. People want to own these stations.

And, yet, today Montana broadcasters come before you to ask for relief from paying employees overtime. These employees who if

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they're lucky make 13,000 dollars a year. This is loathsome behavior from these business people!

When it come down to brass tax, it's a simple decision. Kill this bill! Remember the question I asked before? Why are we hearing a bill today that reward incompetence and morally reprehensible behavior?

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January 17, 1995

To the Members of the Labor and Employment Relations Committee:

First, thank you for the opportunity to submit testimony in opposition to Senate Bill 80.

My name is Meegan McCorkle. I'm a weekend anchor and weekday reporter at KRTV in Great Falls. I've been at KRTV for five years, and I love my job. When I started as a reporter, I knew money would be tight. I knew I'd never be able to support a family on my income, or buy a house. So, I'm not here to complain about my income. But I would like you to understand how vital overtime pay is for those of us starting out in the industry.

My starting salary in 1989 was $12,250 a year. To give you a sense of my financial situation: that first year, my paycheck was about $370 for two weeks. I paid $275 rent. I'm in a better position now because my parent company recently increased my pay to better match weekend anchors in the region. Right now, I make about $430 for two weeks. Still, I juggle bills from pay period to pay period and often postpone paying them. As a rule, after my bills are paid, I rarely have more than $30 left for groceries, gas and any added expenses for two weeks, unless I have some overtime. I live very much paycheck to paycheck.

My situation is not unique. In my time at the station, I've watched reporter after reporter struggle to make ends meet. Some were lucky enough to be able to call home for help in a pinch. But not everyone. Many of us know what it is like to live on cereal, Campbell's soup and other slim pickings because there just wasn't any money for groceries. At one point, I consciously kept PopTarts on my desk for a sportscaster who repeatedly ran out of money- days before his paycheck came in. One night, he even ate his dog's biscuits because he couldn't afford to buy anything to eat.

So even an extra $20 worth of overtime in a paycheck makes all the difference in the world. Often overtime allows me to finally pay my car insurance premium or my vehicle registration, to pick up my dry cleaning or replace worn out shoes. We know better than to rely on it, because most reporters don't earn overtime every paycheck. We understand it's important for the station to hold down those costs. So we only work overtime when a story is too important to ignore.

Right now, we all hear a lot of talk about government trying to ease the load on the middle class. Television and radio personnel in Montana are the picture of the middle class. Few people I know make more than $17,000 a year. We are not asking the Legislature for

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money. We are not asking our companies for money we haven't earned. We just believe we should be paid for the time we work and not paid with compensation time. Time off work doesn't help me get by month to month. Overtime pay does, in a very real sense.

I believe this bill opens the door for abuse by irresponsible managers. And unfortunately, they do exist in Montana. At one point, a friend at a competing station was told she couldn't receive a raise because then she wouldn't be eligible for food stamps. Her general manager told her he thought that eligibility would be more to her benefit.

At this point, I think I should say again that I didn't go into broadcasting for the money, but because I found it to be a job that's personally rewarding. Most of the reporters I know put heart and soul into their job. We live with schedules absolutely out of synch with the rest of the world. We work holidays. There are times when we have to work 14 hour days. But we care enough that we're willing to make the sacrifice. We know that we're doing a job that affects a lot of people and that reporting the news demands absolute commitment. I believe Montanans rely on us to do a good job.

But it's demoralizing to have lawmakers propose taking away some of the small income we earn. Most of the reporters I've known have left Montana because they had to move on to a better living. One of the most frequent concerns I hear from Great Falls residents is that young people don't stay in Montana. I believe passing this bill will only increase the exodus. I'd like to believe Montana is a place that values the needs of its workers as much as the profit margin of its companies.

Thank you for your time and consideration and I sincerely hope you will vote "no" on Senate Bill 80.

Megan McCorkle

Sm. mkt.
1961-exemption

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 7
DATE 01-17-95
BILL NO. SB80

Remarks to the Senate Labor Committee
January 17, 1995

Dear Mr. Chairman and Members of the Committee:

Thank you for this opportunity to speak. My name is Claudia Sears, I am the weekend anchor/weekday reporter at KTVQ television in Billings.

I urge you to reject Senate Bill 80. The employees affected by this bill were given the right to earn overtime by the Montana Supreme Court in a unanimous decision in 1993. Broadcast employees are not exactly highly paid. Most of us earn slightly above minimum wage. I am actually paid well, after four years on the job my salary is closer to 20-thousand than 10-thousand. My starting salary was 12-thousand dollars...one of the highest in the state at the time. Some stations were starting their employees off at nine thousand. Most of us are college graduates, that is a requirement for almost all of the jobs in television and many in radio. All of us, without exception, have some form of post secondary education.

Still the disparity between station managers and employees is great. I believe this bill unfairly singles out the people who work the hardest. Our work is not as clear cut as the monthly quota for a salesperson. We create the products they sell, our personalities and talent are sold, we create the image that makes viewers or listeners want to tune in.

The nature of our job as news people is not a nine to five proposition. News can happen at all hours of the day and night. We are expected to be there, we provide a valuable service to the public. I have personally been called in the middle of the night because of a story. I don't mind this, it's part of what I do...I just want to be compensated for my effort. Believe me, if we stop doing this...ratings suffer, which means revenue suffers. Station owners and managers expect this type of effort, it is demanded, ~~they just don't like to pay for it~~. It's the proverbial they want their cake and to eat it too. This is an issue of fairness. My understandi
Is that Y.C. exempt. Still unclear. However, While st. based in small mkts we broadcast to hundreds of thousands of people
I spent a year on salary under the old system. ~~Legally I can't say anything more.~~ ~~Except that~~ reasons for overtime included vacation relief, sickness, breaking stories, and chronic understaffing. Ironically after we were declared overtime eligible, new employees were hired to relieve some of the burden. Eventhough before, we had always been told there was no money for such an expense. Last year I worked roughly have the overtime I did under the comp system in 93.
I close by saying that we are taxpayers. We spend what ever overtime dollars we make in the communities in which we live. There are times when overtime dollars put us in a higher tax bracket which means we pay more. Most, not all, of the larger television and radio stations in the state are owned by ~~large~~ multi

SENATE LABOR & EMPLOYM
EXHIBIT NO.
DATE
BILL NO.

million dollar out-of-state corporations. They will be the first to return to the old system. I assure you, what profits they make will NOT be spent in Montana. One of the great ironies about this bill in the legislature is, as a reporter, I am constantly hearing residents and lawmakers gripe that Montana kids are leaving the state in search of better opportunities. Then the very same lawmakers turn around and sponsor a restrictive bill such as this one. And you still wonder why your children leave and never come back. I urge you to reject Senate Bill 80!

This is ~~depression era law~~ exempts 20 years old,
One that is ~~losing~~ to my understanding, is being challenged in other states.
It does not belong on the Treasure State book - 6 years short of the year 2000!
With the high overturn rate, not to mention unusually high alcoholism, divorce rates. U would hardly say this works well.—
Fine!
Why be any diff →
It is not fair or workable

Claudia Sears
256-0149

Montana State AFL-CIO

Donald R. Judge
Executive Secretary

110 West 13th Street, P.O. Box 1176, Helena, Montana 59624

406-442-1708

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 8
DATE 1-17
BILL NO. SB 80

January 19, 1995

The Honorable Thomas Keating
Montana State Senate
Capitol Station
Helena, Montana 59620

Dear Senator Keating:

I'm writing to urge your opposition to Senate Bill 80, heard before your committee on January 17. As you know, Senate Bill 80 would extend the exemptions from the Montana Minimum Wage and Overtime Act to include employees employed as announcers, news editors, or chief engineers of certain employers. Said another way, this legislation would EXEMPT these workers from the protections of the Montana laws on minimum wages and overtime compensation.

As the bill's proponents choose to say it, the effect of this legislation would be to EXTEND the coverage of the Federal laws governing minimum wage and overtime compensation to these same employees.

The reality and ultimate impact of this shift would be to EXCLUDE these Montana workers from protections requiring overtime compensation for any work performed in excess of 40 hours per week. The legislation comes in reaction to a unanimous Montana Supreme Court decision affirming the right of these employees to be protected by Montana law, thus requiring payment of overtime compensation for work performed in excess of 40 hours per week.

On behalf of the members of our organization, the employee immediately effected, and for the sake of protecting the quality of news services provided to the citizens of Montana we urge you to reject Senate Bill 80. Please let us briefly review the facts for you:

At the hearing NOT ONE employee effected by the bill testified in favor of its passage. Proponents included only employer representatives and organizations representing the interests of these employers.

With the exception of our organization, which traditionally represents the interests of working people, EVERY opponent consisted of employees ultimately, negatively, effected by passage of SB 80.

Workers generally in these occupations are low paid, highly educated, motivated by their jobs, committed to providing the best possible coverage of news for Montana's viewers and available to work at the request of their employers.

Employers in Montana in this industry are not all "Ma and Pa" operations. In fact, a number of Montana's broadcast organizations are owned by large out-of-state interests with multi-million dollar holdings throughout the region. In addition, Federal Communication Commission regulations restrict competition, thereby giving these operations advantage over free-market forces.

No employer testified that their operation was going to go out of business if the legislature failed to pass this bill. In fact, no one could answer, in general terms, the current level of profitability in this industry, despite being asked that question by a committee member.

Printed on Union-made paper

SENATE LABOR & EMPLOYMENT
EXHIBIT NO._____
DATE_____
BILL NO._____

Passage of Senate Bill 80 would, in fact, surrender Montana's legally adopted right to regulate certain conditions of employment to the Federal Government. This action would seem to fly in the face of electoral distrust of the Federal government and their control over how Montana determines conditions within its borders.

Senator Keating, in addition to the information provided above, it was clear that individuals working in the broadcast industry, those people whom we see daily on TV, are concerned about the impact passage of Senate Bill 80 might have on the quality of news services provided the citizens of Montana. Concerns expressed included:

An inability to attract qualified applicants to such positions in our state (which is recognized as somewhat of a training ground which experiences regular turnover).

Problems with retention of the current news staff who may have to seek other employment simply to pay their bills. You will recall testimony of average wages being in the $13,000 range with highs of less than $20,000 after many years of experience.

Problems of having adequate staff to cover news events, as passage of Senate Bill 80 would provide "comp time" in lieu of overtime, and taking such time would leave news staffs short-handed. As was testified to the committee, news is not an 8 a.m. to 5 p.m. item. It happens in the early a.m. and late p.m., on Saturdays and Sundays, over long stretches of time (the fires, police standoffs, etc.) and over great distances. Montanans now have quality coverage of these events --- would they if SB 80 were to pass?

Inability to get both sides of the story to present a balanced picture. "I got the other guy's side of the story, but I'm afraid that I don't have time to balance that with your side."

Employee moral and dedication to product suffering in those instances where an employer may try to take advantage of his employees under the changes passage of SB 80 would make.

We believe that the proponents have not demonstrated any public good that could be served by passage of this legislation and, in fact, the hearing showed that the public good would suffer if SB 80 is adopted. We also believe that the proponents could not demonstrate and irreparable harm that would befall the proponents if SB 80 were not adopted. In short, there doesn't seem to be any urgent, or long term, need to "fix a law that isn't broke".

We urge you, on behalf of the 42,000 households who make up the members of the AFL-CIO in Montana -- and as consumers of our state's excellent news services, to reject Senate Bill 80 in its entirety.

Thank you for considering our position.

Respectfully submitted,

Don Judge
Executive Secretary

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 9
DATE 1-17-95
BILL NO. SB 80

1/17/95

In Re: Senate Bill 80

I am the newscast director at KTVQ in Billings and I would like to submit my dismay at the proposal of a bill like SB 80. I don't think this is a fair bill for many reasons. The bill is vague in defining Announcers, News Editors, and Chief Engineers who would be exempt from getting overtime pay and receiving compensation time instead.

It doesn't state what a News Editor is. Is it the assignment editor, or does it include photographers that edit videotape in edition to their other duties? Does my position fall under the position of news editor or is my position exempt?

Is an announcer the anchors on the air and any reporters that have their stories put on the air? If an anchor goes into the field with a photographer to do a story and it is in addition to their 40 hour work week would the photographer receive overtime pay and the anchor get compensation time? If so it is clear that this is not fair to the anchor. The same applies to a reporter.

Does the Chief Engineer mean the head of engineering or all of the engineering staff including master control operators? There is not enough staff in these areas to work comp time because if someone fills in for comp time that person would then be getting overtime for filling in. This would create a never ending circle of scheduling and an unneeded bother to the department head who makes out the schedules.

As a working Montanan who's salary is below the average for a full time worker employed in Montana, I don't think it's fair to me and my co-workers, many who earn less than I, to be compensated in comp time for any overtime that we may acquire. Comp time certainly doesn't put food on our families table or pay bills.

In closing I would like to express my dissapointment in Senator Keating's proposal of this bill. Being registered voters in Senate District 5, my wife and I will keep this in mind the next time the District 5 seat is up for reelection.

Thank You,

Brian King

Brian King
620 Crawford Dr.
Billings MT, 59102

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 10
DATE 1-17-95
BILL NO. SB 80

January 17, 1995

My name is Shannon Everts and I'm the Anchor and Producer at KRTV-3 in Great Falls. I am writing this letter because I am concerned about Senate Bill 80.

I was hired by KRTV as a general assignment reporter making a poverty income of just over 12-thousand dollars. I was fresh out of college, a graduate of a 4-year program at Montana State University. I knew my first job in television would be low-paying, especially here in Montana. It's the reason why so many young television reporters come and go, using the state as a stepping stone to bigger and better markets.

Eight years later I can thankfully say that I am making enough money for me to live comfortably in "The Last Best Place." I have to be honest in saying that my husband also works and with our two pay checks we can enjoy what Montana has to offer. But, every year I watch bright, young reporters leave KRTV because they can't make a living.

Reporters are on-call 24-hours a day. They must work weekends, holidays and anytime a major news story breaks. Last year a police officer was shot and killed in Great Falls. I was called to the scene at 5 a.m. A stand-off insued and I stayed at the scene until 6 p.m....broadcasting live reports throughout the day. Along with myself, two other reporters were called in to cover this tragedy which stunned the community. We worked our butts off and deeply appreciated the overtime compensation for our hard work. Overtime pay not only helps reporters survive in a market that pays very little...but it also makes you feel that the company appreciates your hard work and is willing to compensate you monetarily. Comp time is nice...you can take a day off, go enjoy the mountains...but you can't eat the mountains. Overtime allows reporters to survive. And for the ones who want to stay in Montana - it's an incentive.

Please reconsider SB 80.

Thank you.

Shannon Everts

EXHIBIT NO. 11
DATE 1-18-95
BILL NO. SB80

January 17, 1995

Senator Tom Keating
Chairman, Labor and Employee Relations Committee

Dear Senator Keating:

I would like to ask you a question. Have you ever worked a 17 hour day? Not, some 17 hour project or assignment but 17 hours straight?

I have. On December 18th, 1992, when a Cessna 550 crashed into a school district warehouse at 4:45 P.M. I worked a 17 hour day. My day began at 7:00 A.M. when I covered the monthly meeting of the Montana Tradeport Authority. It ended around midnight when the 18th was close to becoming the 19th. You see, I work in television news in Billings.

I'm not the only one who worked long hours that day. The list included reporters, photographers and engineers, all those people who would be affected by SB80.

No one plans to work 17 hours. No one plans to work 10 hours, but in television things happen. In news unexpected things happen. That's why we call it news.

We work long hours because it's part of our job. When houses explode, rail cars collide, and forests burn, we cover the story. And since we make between $12,000 and $20,000, being paid overtime helps us make our mortgage payments, car payments and put our kids through school.

I am a college graduate with work towards a post graduate degree. I have over 13 years experience in television and public relations. I am married and have one child. My husband is not working at this time so I support three people. I make mortgage and car payments as well as put away funds for my retirement and my daughter's college education. I am responsible for the day to day operation of a 19 person news staff. I work holidays. I make less than $20,000.

My station was recently purchased by a news media operation based in Charleston, South Caroline, for more than eight million dollars. The company did not need to borrow money to make the purchase. They own five other television stations in Montana. My station has a two to one lead over our competition because of my hard work and that of the other news room employees. Our sales staff sells lots of advertising and makes sizable commissions based on our rating numbers and the news department's hard work. Why can't the news employees share in the bounty of our hard work?

Kay Erickson

Kay Erickson
1901 Beverly Hill Boulevard
Billings, MT 59102

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1-17-95
SB 80

Frank Field's comments for the Senate Labour and Employment Relations Committee.

Dear Mr. Chairman and Members of the Committee:

I write you to encourage you to recommend that Senate Bill 80 does not pass. My reasons are very simple: the bill is bad for business and the public.

I'm a bit ashamed to tell you that my salary would have to be increased by 12 percent just to reach the average Montanan's annual wages... And I've been doing this in Montana for five years! I've known reporters right there in Helena, who got less than $11,000 dollars a year. But the people who really ought to be embarrassed by that fact are the ones who employ me. And now they want you to take away my overtime. They have some nerve, don't they?

Have you ever noticed that the reporters who work at your local TV station seem to come and go quickly? I'll bet you don't like that because just as you start to trust some of them, they're off to greener pastures... Montana television has become a breeding ground for college upstarts who cut their teeth in our state -- make all their mistakes here -- and then move on. Recommending SB80 do pass will only worsen that problem. It'll mean the merry-go-round moves even more quickly, that more mistakes are made, fewer important issues reach the public correctly and objectively, more viewers get angry, fewer people watch, and stations begin to fold. Montanans deserve better than that.

Don't allow it to happen.

Ever since I was a child growing up in Billings, I've wanted nothing more than to earn a decent living doing what I love in my home state. Don't put me on the merry-go-round and export yet another young person who wants to contribute to our great state.

Please recommend SB80 do not pass.

Sincerely,

Frank Field
KTVQ-2 TV

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1-17-95

January 17, 1995

SB 80

To the Senate Labor and Employment Relations Committee:

I'm writing to testify against Senate Bill 80, which exempts announcers, engineers, and news editors from receiving overtime.

I've lived in Montana all my life. Growing up, I wanted to be a reporter for KRTV. Now I am. I did not pick journalism for the money, but I did pick it as my living. It's not my hobby. I make $266 a week before taxes, and I depend on every penny. A few extra dollars makes a big difference. It doesn't mean fancy dinners out and movies. It means buying a few more healthy groceries after the bills are paid rather than canned soup and ramen noodles.

As a lifetime resident, I also know that many people leave Montana to make a decent living elsewhere. I've never wanted to be one of those people, yet Senate Bill 80 makes me stop and take a hard look at my options. If Montana's economy is of any importance, I should think our legislators would be looking for ways to keep people and money in the state, not force them out.

Furthermore, this bill is a direct attack on the media. I do not understand why one section of the work force is being singled out. It is wrong.

Overtime pay is very important to ensure the best coverage possible. People depend on us to know what's going on, even if it happens after our 8 hours is up that day. We don't abuse overtime, but when it's necessary, the entire community benefits. I worked from 9 a.m. to 2 a.m. the next morning covering the last election. Some of the same people voting on this bill were watching every minute of our coverage and depended on the results we aired. The last seven hours of that coverage wouldn't have existed without overtime.

Please keep that in mind when you vote.

Thank you for your time and consideration.

Sincerely,

Melody Sand, News Reporter, KRTV

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 14 1 of 2
DATE 1-17-95
BILL NO. SB 80

1/17/95

Written testimony regarding Senate Bill 80.

Members of the Committee,

My name is Joel Lundstad. I am news director at KRTV in Great Falls. I have held that position for the past four and a half years. Prior to that I worked as assignment editor at KTVQ in Billings, and as an anchor/reporter at KFBB in Great Falls.

In nearly 10 years in this business, there has been one constant. Television reporters are at the low end of the pay scale. When I started in 1985, my yearly pay was $10,200. For the next three and a half years, my salary was $12,000 with NO overtime. Thankfully, I had parents who helped me out for a good portion of that time, after helping me make it through college.

It is 1995 and reporters are now starting out at the whopping yearly gross of $13,500 a year (that's probably a high estimate). I feel reporters who work for the Montana Television Network are lucky. In the past few years, the company has worked hard to upgrade pay scales and I'm confident they will do that in the future. However, I also feel the passage of SB 80 will legitimize the abuse of news employees by certain employers who care more about making a buck than taking care of their workers.

I know of one station that worked out a so-called "internship" with someone, who basically worked six months for free. This was not a college student who was working for credits. Rather, it was a college grad who was eager to get the experience. This station preys upon these people. If the provisions of SB 80 become law, people who work for barely much more than minimum wage will not be payed for the work they do. This plays right into the hands of the few unscrupulous station owners who take advantage of these situations in the name of the almighty dollar.

The attitude among many station owners already out there is; "If you won't work for this low wage, there are dozens out there who will!" That is not only a sweatshop mentality, but it discourages many bright, motivated people from pursuing a career in broadcasting. That's unfortunate in a business where the goal is to inform the public, and do so in an intelligent manner.

I would have no problem with this bill if it only pertained to News Directors, Chief Engineers and some on-air people. We are making livable salaries, where we can pay for "luxuries," such as food and clothing. However, I think it's unfair to expect people with college degrees who already work for low wages, not to be payed for the time they work.

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 14 2 of 2
DATE 1-17-95
BILL NO. SB 80

There are other reasons why the so-called "comp-time" provisions don't hold water. Some stations simply don't have enough people to allow adequate "comp-time." When you have a staff of only two or three people and you're scrambling on a daily basis just to fill a newscast, you can't afford to continually short your staff by giving people extra time off. When people go on vacation or are sick, most Montana newsrooms are strapped as it is right now. All this does is force other people to work longer hours, creating more overtime (or comp-time).

If this bill succeeds, I am confident that Evening Post will take care of its own personnel. I will make sure that happens in my newsroom. However, I ask you to carefully consider what will happen in many other stations in this state. Put yourselves in the positions of the reporters, photographers, directors and other people who work long hours for little money. If this bill affected your line of work, would you consider it fair that you were not payed for the time you worked and helped your company bring in more revenue? I sincerely hope you will side with those who are struggling day to day to make ends meet and who are not asking for anything more than what they deserve.

Respectfully submitted by;

Joel Lundstad
2704 Dawn Drive
Great Falls, MT 59404

DATE January 17, 1995

SENATE COMMITTEE ON Labor & Employment Relations

BILLS BEING HEARD TODAY: HB 47 HB 31 SB 80

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Oppose
Daniel J Rzepkoch	Myself	SB80		✓
Claudia Sens		SB80		✓
John Andrew	DOLI	HB47	✓	
ROBERT PRECHT	EAGLE COMMUNICATIONS	SB 80	✓	
JANE ENGLISH	Eagle Communications	SB 80	✓	
Meegan McCorkle	myself	SB80		✓
Riley Johnson	Montana Broadcasters Assn	SB 80	✓	
Stuart Doggett	Montana Ingkspress Association	HB47	✓	
R.A. "Gus" Koernig	SELF	SB80		✓
[illegible]				
MATT RAYMOND	Self	SB80		✓
[illegible]	[illegible]	[illegible]		[illegible]
Melissa Case	Hotel Employees & Rest. Emp. Union	SB HB47	✓	
David Owen	MT Chamber	SB80	✓	
George Waterman	AFSCME	HB47	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 1/17

SENATE COMMITTEE ON Labor Labor & Employment Relations

BILLS BEING HEARD TODAY: HB 47

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Check One: Oppose
Michael Keedy	MSBA	47		X
Teresa Reardon	Self	80		X
Don Judge	MT STATE AFL-CIO	HB 47/31	XX	
Don Judge	MT STATE AFL-CIO	SB 80		X
RONALD J DAVIS	KBOW/KOPR BUTTE	SB 80	XX	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

REGISTER.F10

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON LABOR & EMPLOYMENT RELATIONS

Call to Order: By **CHAIRMAN TOM KEATING**, on January 19, 1995, at 1:00 p.m.

ROLL CALL

Members Present:
Sen. Thomas F. Keating, Chairman (R)
Sen. Gary C. Aklestad, Vice Chairman (R)
Sen. Steve Benedict (R)
Sen. Larry L. Baer (R)
Sen. James H. "Jim" Burnett (R)
Sen. C.A. Casey Emerson (R)
Sen. Sue Bartlett (D)
Sen. Fred R. Van Valkenburg (D)
Sen. Bill Wilson (D)

Members Excused: None.

Members Absent: None.

Staff Present: Eddye McClure, Legislative Council
Mary Florence Erving, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

{Tape: One; Side: One}

Committee Business Summary:

Hearing:	SB 125
Executive Action:	HB 47
	SB 80
	HB 31

CHAIRMAN TOM KEATING turned the gavel over to **VICE CHAIRMAN GARY AKLESTAD** so that he could present SB 125 to the committee.

HEARING ON SB 125

Opening Statement by Sponsor:

SENATOR TOM KEATING, SB #5, Billings, MT, stated SB 125 is an act exempting certain petroleum land professionals from the requirements of unemployment insurance and Workers' Compensation laws. For the purposes of exemptions, professional petroleum

SENATOR BAER stated both former district Judge Michael Keedy, who is representing the school board association and he have concerns over the language of the bill. A lot of people would be concerned whether or not they wanted to use telephone or video conferencing for the grievance hearings, etc. Therefore, the amendment was created to solve the problems.

Vote:

The motion to amend HB 47 CARRIED UNANIMOUSLY.

Motion/Vote:

SENATOR SUE BARTLETT moved HB 47 BE CONCURRED IN AS AMENDED. The motion CARRIED UNANIMOUSLY. SENATOR BARTLETT will carry the bill.

EXECUTIVE ACTION ON SB 80

Motion:

SENATOR BURNETT moved SB 80 DO PASS

Discussion:

SENATOR WILSON made a substitute motion to TABLE SB 80.

SENATOR BAER asked **CHAIRMAN KEATING** to explain the ramification of a tabled vote. **CHAIRMAN KEATING** explained if the motion to table is successful, the bill will be placed on the table. It will take a majority vote from the senate floor to get it from the table to second reading. **SENATOR BAER** asked if discussion can be held to determine why the motion to table was made. **CHAIRMAN KEATING** replied no. The motion to table is an attempt to kill the bill.

A roll call vote was taken with **SENATORS BAER, BENEDICT, BURNETT, EMERSON, AKLESTAD, AND KEATING voting NO.**

Motion:

CHAIRMAN KEATING stated the committee will vote on the original motion: **SB 80 DO PASS.**

Discussion:

SENATOR AKLESTAD asked the committee for a recapitulation of the original hearing's testimonials. **CHAIRMAN KEATING** stated the bill deals with the fair labors standards act, section 213. **SENATOR BENEDICT** stated he announced he was not going to vote on SB 80 because of a conflict of interest. Disregard the roll call vote on the table motion. **SENATOR BENEDICT** removed himself from further discussion.

SENATOR EMERSON stated opponent testimony slanted the bill. Most of the opposition was not germane to the issue.

SENATOR VAN VALKENBURG stated the opponents were strongly opposed to SB 80. They had essentially won the right to overtime compensation in a law suit. Senate Bill 80 would overturn the lawsuit. The opponents work for very low wages. It is adding insult to injury, in their minds, to say not only are they going to suffer through very low wages, but when they work more than forty hours a week, they are not going to get compensated with overtime pay. The industry's attitude was that the industry is such an unique industry. They can not afford to pay overtime pay. The industry should get an exemption because Congress voted an exemption for the small markets. Most of Montana is a small market entity. Montana cannot produce news if the operators can not count on the fact they have to pay the employees overtime. **SENATOR EMERSON** stated the employees would get compensated. **CHAIRMAN KEATING** stated the fact remains that it cannot be applied to all broadcasters. In the broadcasting business, some broadcasters make money, some do not. It is a business decision whether the employer can afford overtime, in certain conditions. **CHAIRMAN KEATING** said SB 80 does not specify that the employee must accept comp time in lieu of overtime payment. If the station operator wants to pay the employees overtime, the operator can pay the overtime. For example, if a public service activity is to be covered by the media and the small broadcaster can't afford to pay overtime without advertising compensation and the operator is not all that profitable, the operator can make an agreement with the broadcasters, announcers and/or the chief engineer. If they work over the forty hours to broadcast, they can have comp time in lieu of overtime. It comes down to a comp time/overtime issue. The wages and salaries, and time-and-a-half for overtime became an issue because of the low pay some of the rural broadcasting people make. The bill does not specify the employee must accept comp time in lieu of time and a half for overtime. It just says that the broadcaster is exempt from paying overtime, if the operator chooses not to pay.

SENATOR AKLESTAD asked if the employee would get their comp time, which is regular time. **CHAIRMAN KEATING** said no. **SENATOR VAN VALKENBURG** stated the employee is not automatically granted anything. **SENATOR AKLESTAD** said the employee could be working on "free time", they would not have automatic comp time. **CHAIRMAN KEATING** said that was not necessarily, so. **SENATOR WILSON** brought attention to **CHAIRMAN KEATING's** testimony, when he had said some of the business could not afford to pay overtime. Actually, there was not one shred of testimony about anyone saying they are going under because they were not able to pay overtime. The operators are trying to fatten the bottom line on the backs of the people who work for them, when they should be charging more for their product. This is an absolutely, ridiculous bill. **SENATOR WILSON** stated there is a silver lining to the bill. The arrogance, the greed, and flat-out meanness will lead the unions to organize the industry. Senate Bill 80 is

truly an unfair bill. **SENATOR BURNETT** stated it is a management problem, and they are negotiating between the employer and the employee. It is like a ranching operation, if you cannot afford "them", you do not have "them". **SENATOR EMERSON** wondered why the employees would work so cheap. He can't get employees to work that cheap. It must be like an entertainer, who goes out and puts in hour after hour, hoping for the big break to be a star worth millions of dollars. **SENATOR EMERSON** stated he is sure that is why the job is attractive. The employees work cheap because they expect the future rewards. The employees change around very quickly, especially if they are good. It is a choice because there is a big possibility for success in the industry.

The testimony about the pay concern was not a great factor. The broadcasters have a problem, such as a news worthy event when they can hardly hire people for eight hours each day. The broadcasters might have to cover a two day, newsworthy wreck or snowstorm. Natural disasters cannot be scheduled. **SENATOR WILSON** stated there was testimony about announcers moving on to better paying jobs, but that was not the issue. The issue is the marginal living, and the $20 or $30 dollars in the two weeks pay period means the difference in eating well, eating at all, or paying the rent. The announcer's faces are changing constantly, they are moving into other jobs, but that is no reason to abuse the announcers. There was no testimony about marginal operations or about people who are about to go under. The situation is strictly a case of sensing the political climate, of jumping and of abusing. **SENATOR BAER** stated he would offer the analogy of being a Senator. Senators are paid approximate $106 a day, and it costs him approximately $300 a day to be here. He spends 10 to 12 hours a day working. Senators are here because they chose to be in the legislature. The announcers and others have the same choice. It would be inappropriate for the legislatures to asked for overtime for the many, many hours they work over the forty hours. The analogy may not be perfect, but perhaps it can clarify the problem.

CHAIRMAN KEATING stated SB 80 is being considered because of a Supreme Court decision. The decision was that these people must receive time and a half for overtime. The exemption in federal law had never been applied or had never been added to state law. The individual, who filed suit for time and a half, won his/her case in the Supreme Court. Another Supreme Court case followed shortly thereafter, which put a financial hit on the broadcasters. The rest of the broadcasters anticipated what was coming. **CHAIRMAN KEATING** stated if this measure does not pass and the exemption is not made allowable in the negotiation between the employee and the employer, the pay scale would continue to remain low. The pay would be just enough to attract an announcer or an editor for a while. When they become accomplished, they will move on. Since the Supreme Court made an exception, the negations between the employer and the employee take a whole different tone. On the other hand, there could be

adjustments in the base wage, as long as the broadcasters are not looking at some kind of a hit later on. It can work both ways.

SENATOR BARTLETT stated she would like to add a slightly different slant to the discussion. **SENATOR BARTLETT** commented that part of the information provided by Riley Johnson bothered her. Although **SENATOR BARTLETT** appreciated the comprehensive informational package, the fair labor standards act definitions of an announcer or a news editor concerned her. It appeared that the definitions of the announcer and the news editor are very broad. The bill addresses a 50% work threshold. The door to potential mischief could be opened if managers have to make sure at least 50% of the employee's time is assigned to certain duties. The definitions in tandem with the low pay schedule combine to represent the very problems the Fair Labor Standards Act and the Montana Wage a Hour Act were originally enacted to address. **SENATOR BARTLETT** stated she agrees to some extent with **SENATOR BURNETT** that, in part, it could be a management issue. Certainly, the proposed legislation tasks managers to manage the employees' time, and to recognize instances when employees have to work beyond the 40 hour week because of unscheduled newsworthy events. That does not happen, nor did anyone contend that happens every week of every year. If the managers did their job, in spite of the occasional overtime needs, the managers could live under the wage and hour law.

SENATOR VAN VALKENBURG addressed the ability of the employers to pay. There is mixed evidence of the employer's ability to pay overtime. What is generally known is the big price of the publicly granted licenses needed to run the broadcasting businesses. Subject to the same free market forces and labor management relationships that every other business faces, the broadcast industry is not unique. The licenses are publicly granted licenses, limited in nature so that the owners of these companies have essentially a limited monopoly in which to operate. The licenses are very valuable. While there may not be clear evidence as to yearly profitability. When the licenses get sold, the owners make lots of money. The business is not unlike other businesses that have situations where the overtime cannot be predicted, let alone be controlled. Police and firefighters are an entity that also has a management need to plan for unexpected, but expected overtime. The overtime has to be planned within the yearly budget. The businesses ought to be planning ahead. It seems extremely ironic that the day after SB 80 was heard in committee, many of the same proponents were also proponents of a resolution that castigated the federal government for imposing mandates on the state that in this bill we would be adopting and forcing on Montanans, federal law in superseding what is state law. **SENATOR EMERSON** stated it appears like we are getting into the "management's head" and telling the operators to pay their employees $10 or $15 an hour. That is not the business of the legislature.

CHAIRMAN KEATING explained in regards to the irony argument, the federal government imposed the 40 hour week, imposed the time-and-a-half overtime, and offered the exemption. The same law has both elements. If the legislature applies the law in part, it should also apply the law in whole.

Vote:

The DO PASS motion for SB 80 CARRIED with SENATORS BARTLETT, VAN VALKENBURG and WILSON voting NO. A roll call vote was taken.

EXECUTIVE ACTION ON HB 31

Discussion:

SENATOR VAN VALKENBURG said instead of offering an amendment, the department has a different idea as to what should be done. **Eddye McClure** stated **SENATOR VAN VALKENBURG's** amendment would read on line 26 "a minor under 16 years of age cannot officiate at adult events". The department thought of an easier way to correct the problem. As the bill reads currently, it does one thing. With **SENATOR VAN VALKENBURG'S** amendment, it will do two things. It will allow all minors to do some sports events, and 16 year old minors to do other types of sport events. The concept amendment would also be for line 26. The discussion with the department of labor was whether the legislature needs to go in to the three tier layers, where there are age exemptions and prohibitions in other parts of the child labor law. The consensus opinion was that the layer issue does not need to be addressed. The proposed amendment would say, "any minor could do an official or referee job for a non-athletic sport, but only a minor, who is over the age of 16, can officiate at an adult athletic event. **SENATOR VAN VALKENBURG** stated his preference would be to wait until Tuesday and continue the executive action at that time. The committee would have the amendment document, rather than voting today on a conceptual amendment.

MONTANA SENATE
1995 LEGISLATURE
LABOR AND EMPLOYMENT RELATIONS COMMITTEE

ROLL CALL DATE January 19, 1995

NAME	PRESENT	ABSENT	EXCUSED
LARRY BAER	✓		
SUE BARTLETT	✓		
STEVE BENEDICT	✓		
JIM BURNETT	✓		
CASEY EMERSON	✓		
FRED VAN VALKENBURG	✓		
BILL WILSON	✓		
GARY AKLESTAD, VICE CHAIRMAN	✓		
TOM KEATING, CHAIRMAN	✓		

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SENATE STANDING COMMITTEE REPORT

January 19, 1995

MR. PRESIDENT:

We, your committee on Labor and Employment Relations having had under consideration SB 80 (first reading copy -- white), respectfully report that SB 80 do pass.

Signed: _____
Senator Thomas F. Keating, Chair

Amd. Coord.
Sec. of Senate

161547SC.SRF

MONTANA SENATE
1995 LEGISLATURE
LABOR AND EMPLOYMENT RELATIONS COMMITTEE
ROLL CALL VOTE

DATE January 19, 1995 BILL NO. SB 80 NUMBER _____

MOTION: Senator Wilson made a motion to table SB 80

NAME	AYE	NO
LARRY BAER		★
SUE BARTLETT	★	
STEVE BENEDICT Senator Benedict asked to have his vote disregarded.		★
JIM BURNETT		★
CASEY EMERSON		★
FRED VAN VALKENBURG	★	
BILL WILSON	★	
GARY AKLESTAD, VICE CHAIRMAN		★
TOM KEATING, CHAIRMAN		★

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MONTANA SENATE
1995 LEGISLATURE
LABOR AND EMPLOYMENT RELATIONS COMMITTEE
ROLL CALL VOTE

DATE January 19, 1995 BILL NO. SB 80 NUMBER

MOTION: Senator Burnett: SB 80 DO PASS

NAME	AYE	NO
LARRY BAER	★	
SUE BARTLETT		★
STEVE BENEDICT	Abstained	
JIM BURNETT	★	
CASEY EMERSON	★	
FRED VAN VALKENBURG		★
BILL WILSON		★
GARY AKLESTAD, VICE CHAIRMAN	★	
TOM KEATING, CHAIRMAN	★	

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MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON LABOR & EMPLOYMENT RELATIONS

Call to Order: By **CHAIRMAN TOM KEATING**, on January 31, 1995, at 1:00 P.M.

ROLL CALL

Members Present:

Sen. Thomas F. Keating, Chairman (R)
Sen. Gary C. Aklestad, Vice Chairman (R)
Sen. Steve Benedict (R)
Sen. Larry L. Baer (R)
Sen. James H. "Jim" Burnett (R)
Sen. C.A. Casey Emerson (R)
Sen. Sue Bartlett (D)
Sen. Fred R. Van Valkenburg (D)
Sen. Bill Wilson (D)

Members Excused: None.

Members Absent: None.

Staff Present: Eddye McClure, Legislative Council
Mary Florence Erving, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing:	SB 155
	HB 98
	SB 110
Executive Action:	SB 151
	SB 155
	SB 80
	HB 98

{Tape: One; Side: One}

HEARING ON SB 155

Opening Statement by Sponsor:

SENATOR CHUCK SWYSGOOD, SD 1, Dillon, MT, expressed gratitude to the Labor and Employment Relations Committee for the flexibility in rescheduling SB 155. Senate Bill 155 would exempt a motor carrier vehicle lessor, who is an independent contractor, from the requirements of Unemployment Insurance and Worker's Compensation Laws. **SENATOR SWYSGOOD** requested the committee to table SB 155.

Motion:

SENATOR BARTLETT MOVED SB 151 DO PASS AS AMENDED.

Discussion:

SENATOR BARTLETT stated the bill changes the definitions of temporary service contractor and temporary worker in the definition portion of the Workers' Compensation Act. It is a change that was brought about by problems within the temporary service industry, concerning the old definitions. The State Fund, Department of Labor and Industry, and Temporary Service Contractors reached agreement on the language. The language is workable and preferred to the current language.

Vote:

THE DO PASS AS AMENDED MOTION FOR SB 151 CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 155

Motion/Vote:

SENATOR BENEDICT MOVED TO TABLE SB 155. THE MOTION CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON 80

Motion:

SENATOR BENEDICT MOVED TO AMEND SB 80.

Discussion:

SENATOR BENEDICT stated exemption to SB 80 would make the exemption a small market, radio exemption. By taking out the television stations, the amendment makes the exemption only apply to Second and Third Class cities and towns, those towns under 10,000. **SENATOR AKLESTAD** asked if the bill would strictly be for radio stations, only. **SENATOR BENEDICT** agreed. **SENATOR VAN VALKENBURG** stated that is only radio, by virtue of the fact, there are no television stations in Second and Third Class towns. The amendment does not make some distinction between radio and TV. **Eddye McClure** state number 4, at the word and, the amendment will strike "concern a radio". **SENATOR KEATING** asked for the definition of Second Class city. **SENATOR BENEDICT** stated Second and Third Class cities are: Every city having a population of 10,000 or more, is a city of First Class; every city or town having a population of less than 10,000 and more than 5,000 is a Second Class city; every city having a population of 5,000 or more than 1,000 is a city of third class: and a municipal corporation having a population of less than 1,000 and more than 300 is a town.

SENATOR BARTLETT asked if SB 80 will exempt the positions covered by the amendment from overtime requirements. **SENATOR BENEDICT** explained SB 80 would bring these people into compliance with national, small market exemptions. The bill would only be applied to the small markets of less than 10,000. **SENATOR KEATING** stated SB 80 would exempt those people from time and a half, after 40 hour work week. **SENATOR BARTLETT** asked if there are radios stations for those outside the incorporated cities or towns. **SENATOR BENEDICT** stated every radio station has to be licensed to a city or town. There are no radio stations in unincorporated towns

Vote:

THE MOTION TO AMEND SB 80 PASSED, WITH SENATOR WILSON VOTING NO.

Motion:

SENATOR BENEDICT MOVED SB 80 DO PASS AS AMENDED.

Discussion:

SENATOR WILSON asked **SENATOR BENEDICT** if the amendments are stripped and the bill is returned to the Senate, will you reject the House amendments. **SENATOR BENEDICT** stated he would support the Senate amendment.

Vote:

THE DO PASS MOTION FOR SB 145 AS AMENDED PASSED, WITH SENATORS BARTLETT, VAN VALKENBURG, AND WILSON VOTING NO.

EXECUTIVE ACTION ON HB 98

Motion/Vote:

SENATOR BENEDICT MOVED HB 98 BE CONCURRED IN. THE MOTION CARRIED, WITH SENATOR BARTLETT VOTING NO.

SENATOR EMERSON stated he had the Department Head inform him, after he fired a person for just cause, he would have to pay unemployment benefits, otherwise the fired employee would have to go on welfare. **SENATOR EMERSON** stated to her that unemployment is not a welfare bill. **SENATOR EMERSON** was told by **SENATOR KEATING** that particular areas of concern can be brought before the committee. If the committee is convinced that there is a cause to create a committee bill, the concern can be remedied.

MONTANA SENATE
1995 LEGISLATURE
LABOR AND EMPLOYMENT RELATIONS COMMITTEE

ROLL CALL DATE Jan 31, 1995

NAME	PRESENT	ABSENT	EXCUSED
LARRY BAER	X		
SUE BARTLETT	X		
STEVE BENEDICT	X		
JIM BURNETT	X		
CASEY EMERSON	X		
FRED VAN VALKENBURG	X		
BILL WILSON	X		
GARY AKLESTAD, VICE CHAIRMAN	X		
TOM KEATING, CHAIRMAN	X		

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MINUTES

MONTANA HOUSE OF REPRESENTATIVES
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & LABOR

Call to Order: By **CHAIRMAN BRUCE T. SIMON**, on March 7, 1995, at 8:00 A.M.

ROLL CALL

Members Present:

Rep. Bruce T. Simon, Chairman (R)
Rep. Norm Mills, Vice Chairman (Majority) (R)
Rep. Robert J. "Bob" Pavlovich, Vice Chairman (Minority) (D)
Rep. Vicki Cocchiarella (D)
Rep. Charles R. Devaney (R)
Rep. Jon Ellingson (D)
Rep. Alvin A. Ellis, Jr. (R)
Rep. David Ewer (D)
Rep. Rose Forbes (R)
Rep. Jack R. Herron (R)
Rep. Bob Keenan (R)
Rep. Don Larson (D)
Rep. Rod Marshall (R)
Rep. Jeanette S. McKee (R)
Rep. Karl Ohs (R)
Rep. Paul Sliter (R)
Rep. Carley Tuss (D)
Rep. Joe Barnett (R)

Members Excused: None.

Members Absent: None.

Staff Present: Stephen Maly, Legislative Council
Alberta Strachan, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 151, SB 80, SB 392, SB 400,
Executive Action: HB 574, SB 400, SB 80, SB 375, SB 384, SB 22, SB 242, SB 19, SB 201, SB 38

Closing by Sponsor:

The sponsor closed.

HEARING ON SB 80

Opening Statement by Sponsor:

SEN. TOM KEATING, SD 5, Yellowstone County. said this bill was an act exempting from overtime requirements an employee employed as a radio announcer, news editor, or chief engineer.

Proponents' Testimony:

Riley Johnson, Montana Broadcasters Association, said they were trying to rectify a situation which can threaten a small market radio broadcasting station. The issue originally started with the federal Fair Standards Act versus recent Supreme Count decisions on paying overtime to radio people. This law exempts some cities. This law only applies if the city is under 10,000 population.

David Owen, Montana Chamber of Commerce, said the bill was supported in its original concept. These people need this kind of flexibility.

Opponents' Testimony:

Darrell Holzer, AFL-CIO, said they opposed this bill. The proponents of the bill did not demonstrate any significant public benefit which would be derived from passage of this bill.

Questions From Committee Members and Responses:

REP. EWER asked if hours over 40 would qualify for overtime or compensation. Is the comp. time 1-1/2 time. **Mr. Johnson** said the time is straight time.

REP. LARSON asked how many small market radio stations there were. **Mr. Johnson** said 44.

Closing by Sponsor:

The sponsor closed.

HEARING ON SB 392

Opening Statement by Sponsor:

SEN. DELWYN GAGE, SD 43, Glacier County, said this bill was an act authorizing the Governor or a designee to participate in the Pacific Northwest Economic Region.

a normal hot tub that is located in a motel or health club. Most hot springs have numerous soaking pools with numerous temperatures. It is not the tendency to stay in one pool that is too warm for too long. There are cool water pools. The normal swimming pool range for an outdoor heated pool is 75 degrees.

Closing by Sponsor:

The sponsor closed.

EXECUTIVE ACTION ON HB 574

Motion: REP. MILLS MOVED HB 574 BE REMOVED FROM TABLE.

Discussion:

REP. BARNETT said he still opposed the bill.

REP. ROD MARSHALL stated he also still opposed the bill.

Vote: Motion carried to remove HB 574 from Table 12-6 with REPS. ELLINGSON, TUSS, EWER, LARSON, PAVLOVICH and COCCHIARELLA voting no.

Motion/Vote: REP. MILLS MOVED HB 574 DO PASS. Motion carried 12-6 with REPS. ELLINGSON, TUSS, EWER, LARSON, PAVLOVICH and COCCHIARELLA voting no.

EXECUTIVE ACTION ON SB 400

Motion: REP. BARNETT MOVED SB 400 BE CONCURRED IN.

Discussion:

REP. EWER stated he was concerned with the water temperature since this was a concern with the Board of Health also. Soaking in hot water can be injurious to the fetus of pregnant women. Chico Hot Springs does disclose this information with signs.

REP. MILLS said people with heart problems should also be conscientious of hot pools.

REP. OHS stated the temperature should remain as it is.

Vote: Motion carried on SB 400 18-0.

EXECUTIVE ACTION ON SB 80

Motion/Vote: REP. MILLS MOVED SB 80 BE CONCURRED IN. Motion carried 13-5 with REPS. PAVLOVICH, HERRON, LARSON, COCCHIARELLA and TUSS voting no.

HOUSE OF REPRESENTATIVES

Business and Labor

ROLL CALL DATE 3-7-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bruce Simon, Chairman	X		
Rep. Norm Mills, Vice Chairman, Majority	X		
Rep. Bob Pavlovich, Vice Chairman, Minority	X		
Rep. Joe Barnett	X		
Rep. Vicki Cocchiarella	X		
Rep. Charles Devaney	X		
Rep. Jon Ellingson	X		
Rep. Alvin Ellis, Jr.	X		
Rep. David Ewer	X		
Rep. Rose Forbes	X		
Rep. Jack Herron	X		
Rep. Bob Keenan	X		
Rep. Don Larson	X		
Rep. Rod Marshall	X		
Rep. Jeanette McKee	X		
Rep. Karl Ohs	X		
Rep. Paul Sliter	X		
Rep. Carley Tuss	X		

HOUSE STANDING COMMITTEE REPORT

March 7, 1995

Mr. Speaker: We, the committee on **Business and Labor** report that **Senate Bill 80** (third reading copy -- blue) **be concurred in**.

Signed: _____
Bruce Simon, Chair

Carried by: Rep. Nelson

Committee Vote:
Yes 13, No 5.

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HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Business DATE 3-7-95

BILL NO. SB80 SPONSOR(S)

PLEASE PRINT PLEASE PRINT PLEASE PRIN

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Riley Johnson	MT. BROADCASTERS ASSN.	✓	
DARRELL HOLZER	AFL-CIO		✓
David Owen	MT Chamber	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.